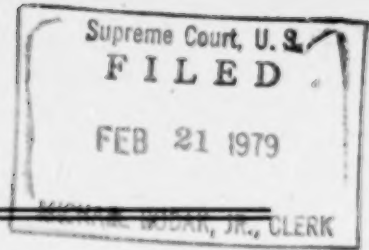


APPENDIX



In The
Supreme Court of the United States
October Term, 1978

No. 78-610

COLUMBUS BOARD OF EDUCATION, et al.,
Petitioners,

vs.

GARY L. PENICK, et al.,
Respondents.

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

PETITION FOR CERTIORARI FILED OCTOBER 11, 1978
CERTIORARI GRANTED JANUARY 8, 1979

VOLUME I

(Pages 1 - 406)

INDEX

	<u>Page</u>
Chronological List of Relevant Docket Entries	1
PLEADINGS, FINDINGS AND OPINIONS	
Complaint (June 21, 1973)	5
Answer of Defendants Columbus Board of Education, Tom Moyer, Paul Langdon, Virginia Prentice, Marilyn Redden, Watson Walker, David Hamlar, Marie Castleman, and John Ellis, Superintendent of Columbus Public Schools (July 18, 1973)	12
Second Amended Complaint (October 24, 1974)	15
Answer of Defendants Columbus Board of Education, et al., to Plaintiffs' Second Amended Complaint (November 4, 1974)	30
Complaint in Intervention — Class Action (March 10, 1975)	32
Memorandum and Order (Granting Motion to Intervene) (March 10, 1975)	43
Answer of Defendants Columbus Board of Education, et al., to Complaint in Intervention (April 1, 1975)	47
Order (Complaint May be Maintained as a Class Action) (April 9, 1975)	50
District Court Opinion and Order on Liability (March 8, 1977)	Pet. App. at 1*

* Opinions reproduced in the Appendix to the Petition For a Writ of Certiorari are not reproduced.

	<u>Page</u>
District Court Liability Judgment (March 9, 1979)	Pet. App. at 87
Order Granting Petition for Permission to Appeal (Sixth Circuit, Case Nos. 77-3365, 77-3366) (June 29, 1977)	51
District Court Memorandum and Order Granting Leave to File Amended Desegregation Plan (July 7, 1977)	Pet. App. at 90
Motion of The Ohio State Board of Education and Superintendent of Public Instruction for Sup- plemental Findings of Fact (July 11, 1977)	53
Motion of Columbus Board of Education and Dr. Joseph L. Davis, Interim Superintendent of Columbus Public Schools, for Determination of Incremental Segregative Effect (July 11, 1977)	57
District Court Order Rejecting Proposed Deseg- regation Plans (July 29, 1977)	Pet. App. at 97
District Court Order Ordering Implementation of Phase I Preparatory Efforts (August 30, 1977)	64
Columbus Board of Education's Response to the Court's July 29, 1977 Order (Desegregation Plan Only) (August 31, 1977) (Pages 125-135 as revised September 26, 1977)	64
District Court Memorandum and Order Setting Date for Hearing on Proposed Desegregation Plan (September 16, 1977)	173

	<u>Page</u>
Order Granting Petition for Permission to Appeal from District Court's July 29, 1977 Order (Sixth Circuit Case Nos. 77-3490, 77-3491) (October 3, 1977)	176
District Court Memorandum and Order Imposing Desegregation Remedy (October 4, 1977)	Pet. App. at 125
District Court Remedy Judgment (October 7, 1977)	Pet. App. at 138
Notice of Appeal from District Court's October 7 Remedy Judgment (November 4, 1977)	177
Sixth Circuit Opinion Affirming District Court Liability and Remedy Judgments (July 14, 1978)	Pet. App. at 140
Sixth Circuit Judgment (July 14, 1978)	Pet. App. at 208
Sixth Circuit Order Denying Stay Pending Cer- tiorari (July 31, 1978)	Pet. App. at 210
Opinion of Mr. Justice Rehnquist Granting Stay Pending Certiorari (August 11, 1978)	Pet. App. at 211
Order of Mr. Justice Rehnquist Granting Stay Pending Certiorari (August 11, 1978)	Pet. App. at 217
Order of Mr. Chief Justice Burger Denying Re- spondents' Motion to Convene Special Term and to Vacate Stay (August 25, 1978)	Pet. App. at 218

TRANSCRIPT PORTIONS

	<u>Page</u>
Plaintiffs' Witnesses	
Helen Jenkins Davis	177
William Lamson	191
Barbee Durham	194
Clarence Lumpkin	203
Marjorie Given	222
John Ellis	227
William Culpepper	243
Michael McLaughlin	248
Carl White	249
Frank Gibb	251
Myron Seifert	254
Karl Taeuber	280
Lucien Wright	311
Robert Carter	315
Martin E. Sloane	325
Robert Green	354
David Hamlar	356
Howard Merriman	360
W. A. Montgomery	364
Cleo Dumaree	397
Gordon Foster	407
Defendants' Witnesses	
Novice Fawcett	544
Francis Rudy	578
Robert Carter	607
Joseph Davis (cross examination only)	646
John Ellis	648
Howard Merriman	652
Marilyn Redden	694

	<u>Page</u>
Plaintiffs' Rebuttal Witness	
Joan Folk	685
State Defendants' Witness	
Martin Essex	688
Plaintiffs' Rebuttal Witnesses	
Leon Mitchell	695
Harriet Langston	701

REMEDY HEARINGS

July 11-13, 1977

Motion by Mr. Porter	715
Defendants' Witness	
Joseph Davis	741

EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>	
Px 11	October, 1975 Civil Rights Survey for U.S. Department of Health, Education and Welfare, Office of Civil Rights	745
Px 62	"The 1958-59 Study of the Public School Building Needs of Columbus, Ohio," Bureau of Educational Research, Ohio State University, July, 1959. p. 58 only	751
Px 63	"The 1967-68 Study of the Public School Needs of Columbus, Ohio," Educational Administration and Facilities Unit, College of Education, Ohio State University, March, 1969. pp. 5-7, 9-10, 12, 13, 14-19 only	751

<u>Exhibit No.</u>	<u>Description</u>	<u>Page</u>
Px 64	"The 1963-64 Study of the Public School Needs of Columbus, Ohio," Bureau of Educational Research, Ohio State University, June, 1964. p. 65 only	766
Px 137	Table of Annexations to Columbus City School District	767
Px 140	Extract from Minutes of the State Board of Education of Ohio, July 10, 1972	769
Px 383	Columbus Public Schools, Pupil En- rollments by percent Black from 1964 to 1975-76	775
Px 385	Columbus Public Schools, Profession- al Staff by school by percent Black from 1964 to 1975-76	789
Px 505	Karl Taeuber "Columbus, Pupil Seg- regation, Minority vs. Non-Minority" (Segregation Indices)	802

CHRONOLOGICAL LIST OF RELEVANT DOCKET ENTRIES

<u>Date Filed*</u>	
June 21, 1973	Complaint
July 18, 1973	Answer of Defendants Columbus Board of Education, Tom Moyer, Paul Langdon, Virginia Prentice, Marilyn Redden, Wat- son Walker, David Hamlar, Marie Castle- man, and John Ellis, Superintendent of Columbus Public Schools
July 19, 1974	Amended Complaint
October 24, 1974	Second Amended Complaint
November 4, 1974	Answer of Defendants Columbus Board of Education, et al., to Plaintiffs' Second Amended Complaint
March 10, 1975	Complaint in Intervention — Class Action
March 10, 1975	Memorandum and Order (Granting Mo- tion to Intervene)
April 1, 1975	Answer of Defendants Columbus Board of Education, et al., to Complaint in Inter- vention
April 9, 1975	Order (Complaint May be Maintained as a Class Action)
March 8, 1977	Opinion and Order (Finding Systemwide Liability)
March 9, 1977	Judgment
March 18, 1977	Petition of Columbus Board of Education for Permission to Appeal pursuant to 28 U.S.C. §1292(b) (Sixth Circuit)

*As shown on Court Docket

<u>Date Filed*</u>	
April 7, 1977	Notice of Appeal
May 17, 1977	Order (Extending Date for Submission of Plans to June 14, 1977)
June 10, 1977	Proposed Desegregation Plan of Columbus Board of Education
June 14, 1977	Plan for Desegregation of Columbus Public Schools submitted by State Board of Education
June 29, 1977	Order granting Petition for Permission to Appeal of Appellants Columbus Board of Education, et al., and Ohio State Board of Education, et al. (Sixth Circuit, Case Nos. 77-3365 and 77-3366)
July 1, 1977	Motion for Leave to File Amended Plan
July 7, 1977	Memorandum and Order (granting leave to file amended plan)
July 8, 1977	Amended Proposed Desegregation Plan of Columbus Board of Education
July 11, 1977	Motion of The Ohio State Board of Education and Superintendent of Public Instruction for Supplemental Findings of Fact
July 11, 1977	Motion of Columbus Board of Education and Dr. Joseph L. Davis, Interim Superintendent of Columbus Public Schools, for Determination of Incremental Segregative Effect
July 29, 1977	Order (rejecting proposed remedy plans)

*As shown on Court Docket

<u>Date Filed*</u>	
August 5, 1977	Petition of Columbus Board of Education for Permission to Appeal pursuant to 28 U.S.C. §1292(b) (from District Court Order of July 29, 1977) (Sixth Circuit)
August 8, 1977	Order (granting extension of time to file remedy plan and transportation report)
August 17, 1977	August 17, 1977 Report Concerning Phase I Preparatory Efforts.
August 30, 1977	Order (approving Phase I Report and ordering implementation)
August 31, 1977	Response of the State Board of Education and Superintendent of Public Instruction to the District Court Order of July 29, 1977
August 31, 1977	Columbus Board of Education's Response to the Court's July 29, 1977 Order (Desegregation Plan and Transportation Report)
September 13, 1977	Plaintiffs' Response to the Proposed Desegregation Plan and Transportation Report of the Defendants Filed Pursuant to the Court's Order of July 29, 1977
September 16, 1977	Memorandum and Order (setting date for hearings on plan)
September 26, 1977	Revisions to pages 125-135 of Columbus Board of Education's Response to the Court's July 29, 1977 Order

*As shown on Court Docket

Date Filed*

October 3, 1977 Order granting Petition for Permission to Appeal of Defendants Columbus Board of Education, et al., and Ohio State Board of Education, et al., from District Court's July 29, 1977 Order (Sixth Circuit, Case Nos. 77-3490 and 77-3491)

October 4, 1977 Memorandum and Order (ordering implementation of systemwide desegregation plan)

October 7, 1977 Judgment

November 4, 1977 Notice of Appeal (Appeal docketed as Sixth Circuit Case No. 77-3553, November 11, 1977)

November 21, 1977 Order Granting Appellees' Motion to Consolidate Pending Appeals and to Extend Time (Sixth Circuit, Case Nos. 77-3365, -3366, -3490, -3491, -3553)

July 14, 1978 Judgment of United States Court of Appeals for the Sixth Circuit (affirming judgment of District Court in all respects except for the remand of cases pertaining to the Ohio State Board of Education for further reconsideration as in Section VII)

July 14, 1978 Opinion by Edwards, J. (Sixth Circuit)

August 9, 1978 Mandate issued (Sixth Circuit)

*As shown on Court Docket

In The United States District Court

FOR THE SOUTHERN DISTRICT OF OHIO

EASTERN DIVISION

GARY L. PENICK, ANTHONY PENICK, DONALD PENICK and RONALD PENICK, by their Mother and Next Friend, ZETTER PENICK, DONNA CATES, by her Mother and Next Friend, ROSE CATES, BEVERLY and WANDA CORNER, by their Mother and Next Friend, ROSETTA CORNER, ALEXES and KELLI SMITH, by their Mother and Next Friend, ETHEL M. SMITH, CHRISTIAN D. PALMER, by her Mother and Next Friend, JANET S. PALMER, LEROY and VALERIE HAIRSTON, by their Father and Next Friend, JOHN HAIRSTON, TRACY BROWN, by his Mother and Next Friend, NANCY G. BROWN and MARTIN FISHER, by his Mother and Next Friend, GOLDIE FISHER

- vs -

Plaintiffs

**CIVIL
ACTION
No.
73-248**

COLUMBUS BOARD OF EDUCATION and its individual members; TOM MOYER, PAUL LANGDON, VIRGINIA PRENTICE, MARILYN REDDEN, WATSON WALKER, DAVID HAMLAR, MARIE CASTLEMAN, JOHN ELLIS, Superintendent of the Columbus Public Schools, OHIO STATE BOARD OF EDUCATION, MARTIN ESSEX, Ohio Superintendent of Public Instruction, WILLIAM J. BROWN, Attorney General, State of Ohio and JOHN J. GILLIGAN, Governor, State of Ohio and Ex Officio member of the State Board of Education

Defendants

COMPLAINT

[Filed June 21, 1973]

I. JURISDICTION

1. The jurisdiction of this Court is invoked under 28 United States Code, Sections 1331(a), 1343(3&4). This is a suit seeking relief in equity under 42 United States Code, Sections 1983-1988 and Section 2000(d) to redress the deprivations under color of Ohio law, statute, custom and usage of rights, those privileges and immunities guaranteed by the Thirteenth and Fourteenth Amendments to the Constitution of the United States and Article 1, Section 2 of the Constitution of the State of Ohio. This action is also authorized by 42 United States Code, Section 1981, which provides that all persons within the jurisdiction of the United States shall have the same rights to the full and equal benefits of all laws and proceedings for the security of persons and property as is enjoyed by white citizens. Jurisdiction is further invoked under 28 United States Code, Section 2201 and 2202, this being a suit for declaratory judgment to declare the rights, duties and obligations between the Plaintiffs and the Defendant Board of Education and its members as a result of certain Resolutions passed by the Board.

II. PLAINTIFFS

2. The Plaintiffs, Gary L. Penick, Anthony Penick, Donald Penick, Ronald Penick, Donna Cates, Beverly Corner, Wanda Corner, Alexes Smith, Kelli Smith, Christian D. Palmer, Leroy Hairston, Valerie Hairston, Tracy Brown and Martin Fisher, are all parents or minor children thereof attending school in the public school system of the State of Ohio, in the City of Columbus, and are black and white citizens of the United States.

III. DEFENDANTS

3(a). The Defendant Columbus Board of Education, is organized and exists under and pursuant to the laws of

the State of Ohio and operates the public school system in the Columbus School District, subject to the direction and control of said Defendant.

(b). The Defendants, Tom Moyer, Paul Langdon, Marilyn Redden, Virginia Prentice, Watson Walker, David Hamlar and Marie Castleman, are all residents of Franklin County, Ohio and elected members of the Columbus Board of Education, Columbus, Ohio.

(c). Defendant, John Ellis, is a resident of Franklin County, and the duly appointed Superintendent of the Columbus School District, Columbus, Ohio.

(d). Defendant, Ohio State Board of Education, is a constitutional corporate body, charged with the primary responsibility of administering public school education in the School System of Ohio, including the Columbus School District.

(e). The Defendant, Martin Essex, is Superintendent of Public Instruction of the Department of Education of the State of Ohio and is the Chief Administrative Officer for public school education in the State of Ohio.

(f). Defendant, William J. Brown, is the Attorney General of the State of Ohio and is responsible for enforcing the Constitution and laws of the State of Ohio.

(g). Defendant, John J. Gilligan, is the Governor of the State of Ohio, and Ex Officio member of the State Board of Education.

IV. FACTS

4. For a number of years the Defendant School Board and its members has attempted to cope with racial imbalance in the Columbus School District and has sought numerous means to achieve quality integrated education, the data on racial imbalance being furnished by school appointed research groups, community based research facilities and private and independent research agencies such as the Columbus, Ohio Urban League. The Board has, by resolution sought to develop affirmative action to

achieve better racial distribution of pupils and quality education for all children. More than six years ago the Columbus Board of Education passed the following resolution:

"Be it further resolved that while solutions to racial imbalance are being sought, the Board of Education and the staff of the Columbus Public School continue to devote all of the necessary energies required for the development of a total quality education for every child attending a Columbus public school."

Resolution of March 21, 1967.

In 1968 the Board passed the following resolution:

"Be it further resolved that the Columbus Public Schools continue to offer and expand, within available resources, compensatory education programs while pursuing efforts to achieve better racial distribution of pupils."

Resolution dated June 18, 1968.

The Board was so concerned about the effect of its building program on racial imbalance that it passed two resolutions on June 18, 1968, resolving that new school construction or additions be delayed until open housing agreements could be secured in the Columbus District.

During the summer of 1972 the Board launched plans to raise the sum of 89.5 million dollars to create and construct educational facilities throughout the Columbus School District. However, the decision to place the School Bond Issue on the ballot failed when three of the Defendant School Board members, Watson Walker, David Hamler and Marie Castleman, prevented a unanimous vote for the Bond Issue. These members alleged that previous funds spent on building facilities had resulted in the increase of racial imbalance and consequent racial isolation of blacks in the Columbus School system. They further alleged that black children would be denied a just share in the building fund by reason of increasing trends of segregation in the

district and because of improper selection of future sites by the Board. These three members demanded that the Board pass a specific resolution guaranteeing quality, integrated education in return for their approval of the Bond Issue.

The Board, after considerable deliberation, passed the following resolution on July 18, 1972 as a major policy statement on integration:

"It shall be the goal and the policy of the Columbus Public Schools to prepare every student for life in an integrated society by giving each student the opportunity of integrated educational experiences. Such a goal does not imply the mandatory or forced transportation of students to achieve a racial balance in any or all schools. The Superintendent of Schools shall implement this policy by the development of proposals for the approval of the Board of Education. The first priority of the Superintendent shall be the development of a plan to provide the transportation necessary to give all students access to vocational and career facilities and all special programs or courses offered by the Columbus Public Schools."

V. CAUSE OF ACTION

5. It is the contention of the Plaintiffs that the resolution set forth in paragraph 4, as well as all other resolutions of the Board, recognizes the existence of racial imbalance in the Columbus School District, contrary to the legal mandate of the Supreme Court case, *Brown v. The Board of Education* and its progeny. The resolutions also recognize that the Board can become an instrument in the creation of racial patterns, as well as in the elimination of racial isolation. The Plaintiffs contend that the Resolutions set forth establish the responsibility of the Board to provide the opportunity of integrated educational experiences in compliance with the Equal Protection Clause of the Fourteenth Amendment and to eradicate segregative

trends through affirmative action. The Plaintiffs allege that careful planning in the use of the enormous fund created by the Bond Issue will be such affirmative action as can affect the patterns of equal use and equal access of these Plaintiffs to school facilities built through such public funds for years to come.

6. It is the further contention of the Plaintiffs that since the passage of the Bond Issue in the November, 1972 election, the Defendant School Board, in planning and carrying out its new construction and site selections plan, has failed to include therein any effective plans which will implement the Board's resolution set forth above. Plaintiffs further say that the Board majority, since the passage of the Bond Issue, has shown lack of good faith in carrying out its adopted resolutions for integrated educational experiences. Members of the Board have made statement denying the clear intent of the Resolution and objecting to any school board plan, having as its aim the integration of races. The Board has also shown lack of good faith by the following acts:

- A. REJECTING A PROPOSAL TO FORM A SPECIAL ADVISORY COMMITTEE ON SCHOOL SITE SELECTION.
- B. BY OPPOSING AN INNOCUOUS AND INEFFECTIVE PLAN TO TRANSPORT STUDENTS TO SPECIAL PROGRAMS, COMMONLY KNOWN AS "THE COLUMBUS PLAN".
- C. BY REFUSING TO FREELY NEGOTIATE WITH THE OHIO CIVIL RIGHTS COMMISSION FOR TEACHERS AND STAFF INTEGRATION.
- D. BY REFUSING TO ACCEPT A PORTION OF FIVE MILLION DOLLARS (\$5,000,000.00) IN H.E.W. FUNDS WHICH REQUIRED THE BOARD TO SUBMIT A PLAN FOR SCHOOL DESEGREGATION.

7. Plaintiffs say that rights, duties and obligations arose between these Plaintiffs and the Defendant Board of Education and its members as a result of the passage of the Resolution of July 18, 1972 and all other Resolutions pertaining to affirmative action for quality integrated education, and that resulting therefrom an honest dispute and justiciable controversy now exists between the parties as to the interpretation of said Resolution and as to whether or not it requires the Board to initiate and carry out any affirmative action to guarantee integrated educational experiences through the building program under the funds now available and being spent, or about to be spent out of the Bond Issue passed November 7, 1972. Plaintiffs say that the controversy between the parties involves substantial constitutional rights under the Thirteenth and Fourteenth Amendment and under Article 1, Section 2 of the Ohio Constitution and Bill of Rights.

VI. DEMAND FOR EQUITABLE RELIEF

Plaintiffs say that they have no adequate remedy at law to redress the abuse of their rights under the Federal Constitution, that the wrongs which would be inflicted upon these Plaintiffs would be a continuing one and that since permanent structures are about to be built with public funds, the damages to Plaintiffs' rights will be irreparable, and the relief sought here is essential to the preservation of the Plaintiffs' rights arising under federal law as well as the Bill of Rights of the State of Ohio.

PRAYER

WHEREFORE, Plaintiffs request the following relief:

- 1. A declaratory judgment, finding that there is racial imbalance in the Columbus School District.
- 2. A Judgment declaring the rights, duties and obligations created and existing by and between the Plaintiffs and the Defendant Board of Education as a result of the

Resolution of the Defendant Board and, specifically, as the resolution of July 18, 1972 affects the building program approved, after passage of the Resolution by the Board.

3. A mandatory injunction, requiring the Defendants to perform any acts required to effect any legal obligations found to exist by the Court.

4. The appointment of a Master by the Court to supervise the implementation of any order by the Court.

5. The advancement of this cause on the docket because it involves the alleged imminent spending of public funds in a manner contrary to federal law.

6. Such other and further relief as may be just and equitable, including attorney fees.

WILLIAM J. DAVIS
855 East Long Street
Columbus, Ohio 43203
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◆

ANSWER OF DEFENDANTS
COLUMBUS BOARD OF EDUCATION, TOM MOYER,
PAUL LANGDON, VIRGINIA PRENTICE, MARILYN
REDDEN, WATSON WALKER, DAVID HAMLAR,
MARIE CASTLEMAN, AND JOHN ELLIS,
SUPERINTENDENT OF THE COLUMBUS
PUBLIC SCHOOLS

[Filed July 18, 1973]

[Caption Omitted in Printing]

First Defense

1. Defendants admit that Plaintiffs seek to bring this action under 28 U.S.C. §§ 1331(a), 1343(a) and (4),

2201 and 2202, 42 U.S.C. §§ 1981, 1983-1988 and 2000(d). Defendants deny that Plaintiffs have the right to bring an action under these sections or that a claim is stated thereunder and otherwise deny the allegations contained in Paragraph 1 of the Complaint.

2. For want of knowledge, Defendants deny the allegations contained in Paragraph 2 of the Complaint.

3. The Defendants admit that the powers and duties of the Defendants Columbus Board of Education, Ohio State Board of Education, Martin Essex, Superintendent of Public Instruction of the Ohio Department of Education, and William J. Brown, Attorney General of the State of Ohio, are provided for by the laws of the State of Ohio, but deny the other allegations of Paragraph 3(a), (d), (e) and (f) of the Complaint.

4. The Defendants admit the allegations of Paragraph 3(b), (c) and (g).

5. Defendants admit that on March 21, 1967, June 18, 1968 and July 18, 1972, resolutions were passed by the Columbus Board of Education and that part of those resolutions are quoted in Paragraph 4 of the Complaint.

Defendants deny that the remaining allegations of Paragraph 4 of the Complaint contain or present a complete or accurate history or background of the circumstances surrounding or the motivating factors causing adoption of the resolutions and therefore, denies all other allegations contained in Paragraph 4 not herein otherwise admitted to be true.

6. Defendants deny the allegations contained in Paragraphs 5, 6 and 7 of the Complaint.

7. Defendants deny each and every other allegation of the Complaint not herein otherwise expressly admitted to be true.

Second Defense

8. The Complaint fails to state a claim upon which relief can be granted against the Defendants and each of them.

Third Defense

9. The Plaintiffs are without standing before the court to maintain this action.

WHEREFORE, the Defendants ask that the Complaint be dismissed and that they go hence without day.

Respectfully submitted,

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REDDEN, WATSON
WALKER, DAVID HAMLAR,
MARIE CASTLEMAN, AND
JOHN ELLIS,
SUPERINTENDENT OF THE
COLUMBUS PUBLIC
SCHOOLS

[Certificate of Service Omitted in Printing]

SECOND AMENDED COMPLAINT

[Filed October 22, 1974]
[Caption Omitted in Printing]

I. JURISDICTION

1. The jurisdiction of this Court is invoked under 28 U.S.C. Section 1221 (a), 1343 (3) and (4). The amount in controversy, exclusive of interests and costs, exceeds the sum or value of Ten Thousand Dollars (\$10,000.00). This is a suit in equity authorized by 42 U.S.C. Sections 1983-1988 and 2000 (d), to redress the deprivations under the color of Ohio Law, statute, custom, and/or usage of rights, privileges, and immunities guaranteed by the Thirteenth and Fourteenth Amendments to the Constitution of the United States. Plaintiffs also seek a declaratory judgment, injunctive relief, and such further relief as is warranted pursuant to 28 U.S.C. Sections 2201-2202. This action is also authorized by 42 U.S.C. Sections 1981 and 1982, which provide that all persons within the jurisdiction of the United States shall have the same rights to the full and equal benefits of all laws in proceedings for the security of persons and property, and rights of acquisition thereof, as is enjoyed by white citizens. This action is also brought under the Fair Housing Law of 1968 as amended, 42 U.S.C. Section 3601, et seq.

II. PARTIES

2. The Plaintiffs, Gary L. Penick, Anthony Penick, Donald Penick, Zetter Penick, Donna Cates, Rose Cates, Beverly Corner, Wanda Corner, Rosetta Corner, Alexes Smith, Kelli Smith, Ethel M. Smith, Christian D. Palmer, Janet S. Palmer, Leroy Hairston, Valerie Hairston, John Hairston, Tracy Brown, Nancy G. Brown, Martin Fisher and Goldie Fisher, are all parents or minor children thereof attending school in the public school system of the

State of Ohio, in the City of Columbus, and are black and white citizens of the United States.

3. The defendants, The Board of Education of the City of Columbus; organized and existing in Franklin County, Ohio, under and pursuant to the laws of the State of Ohio and operating the public school system of Columbus, Ohio, subject to the direction and control of said defendant.

4. The defendants, Tom Moyer, Paul Langdon, Marilyn Redden, Virginia Prentice, Watson Walker, David Hamlar and Marie Castleman, are all residents of Franklin County, Ohio and elected members of the Columbus Board of Education, Columbus, Ohio.

5. The defendant, John Ellis is a resident of Franklin County and the duly appointed Superintendent of the Columbus School District, Columbus, Ohio.

6. The defendant, James A. Schaefer is a resident of Franklin County and the duly elected Franklin County Recorder, and records and retains in his custody all Deeds of real estate in Franklin County, Ohio.

7. The defendant, The Ohio State Board of Education, located in Columbus, Ohio, is a constitutionally incorporated body charged with the primary responsibility of administering public education in the public school systems of Ohio, including the Columbus Public School District and its total school community.

8. The defendant, Martin W. Essex, a Franklin County resident is Superintendent of the Public Instruction of the Department of Education of the State of Ohio, and is chief administrative officer for public education in the State of Ohio.

9. The defendant, William J. Brown, Franklin County resident and the Attorney General of the State of Ohio, who is responsible for enforcing the laws and constitution of the State of Ohio.

10. The defendant, John J. Gilligan, Governor of the State of Ohio, is a Franklin County resident and an ex officio member of the State Board of Education.

III. CLASS ACTION

1. Plaintiff minor children, by their parents and next of friends, pursuant to Rule 23, and more specifically 23 (a) (2), 23 (b) (1) (b), and 23 (B) (2) of the Federal Rules of Civil Procedure, bring this action on their own behalf and on behalf of all persons similarly situated. The class which plaintiffs represent consists of:

(a) All those children within the Columbus Public School District, or eligible to attend schools within said school district, who by virtue of the actions, acquiescences, and omissions of the Board of Education and other defendants herein, will be attending segregated or substantially segregated schools on the grounds of their race and who will be forced to receive an unequal educational opportunity during the 1974-75 school term; and

(b) All those school children who are within the Columbus Public School district or eligible to attend school within said school district, who by virtue of the policies, actions, acquiescences, and omissions of the Board of Education and other defendants herein, will be and have been attending segregated schools or substantially segregated schools on grounds of their race, and who will be and have been receiving an unequal educational opportunity.

12. There are questions of fact and law common to all members of the class represented by plaintiffs, namely:

(a) Whether in fact, members of said class, by virtue of the actions of defendants complained of herein, will be attending segregated or substantially segregated schools, and will be forced to receive an unequal educational opportunity and, further, whether in law such actions of the defendants are unconstitutional and void;

(b) Whether in fact, members of said class, by virtue of the actions, acquiescences, or omissions of the defendants complained of herein, will be and have been attending segregated or substantially segregated schools and will be and have been receiving an unequal educational opportunity; and further, whether in law such actions, acquiescences, and omissions of the defendants herein are unconstitutional and void; and,

(c) Whether defendants acting under color of law, regulation, custom or usage, have caused or permitted plaintiffs to be deprived of rights, privileges, and immunities secured by the Constitution and Laws of the United States.

13. The claims of the individual minor plaintiffs are representative and typical of the class, in that each plaintiff reflects and illustrates one or more of the various types of deprivation complained of herein.

14. Said individual minor plaintiffs will fairly and adequately represent and protect the interest of the class, in that said plaintiffs in the class share common objectives and purposes in presenting the issues framed herein, in seeking a declaration of their constitutional rights, and in seeking equitable relief to prevent the injuries complained of, and their attorneys are qualified and able to conduct this litigation.

15. The prosecution of separate actions by individual members of the class would as a practical matter be dispositive of the interest of other members not parties to the adjudications, and would substantially impair their ability to protect their interest. The parties opposing the class, that is, the defendants herein have acted and have also refused to act on grounds generally applicable to the class as more fully appears herein; and the final injunctive and declaratory relief sought herein will apply to the class as a whole.

16. Questions of law or fact common to members of the class predominate over any questions affecting or

relating only to individual members of the class; and proceeding by way of this class action is superior to any other alternative means available, if any, for the fair and efficient adjudication of the controversy, and the granting of adequate relief, thus, the only alternative would be the prosecution of separate suits related to each school within the District, but no adequate relief could be formulated for the constitutional defects of the school system as a whole under such a piece meal approach, nor would the differences between schools be sufficient enough to justify such a multitude of suits.

IV. STATEMENT OF FACTS

17. This is a proceeding for a declaratory judgment, preliminary and permanent injunctions enjoining the defendants from continuing their policy, practice, custom and usage of operating the public schools in Columbus, Ohio, and where applicable, its total school community, in a manner which has the purpose and effect of pursuing policies of containment, perpetuating racial segregation in the public schools; to restrain defendants from all further school construction with certain exceptions, until such time as a constitutional plan for the operation of the Columbus Public Schools has been approved and new construction re-evaluated as a part thereof; to restrain the Franklin County Recorder, and those under his direction, from accepting, recording, publishing and/or disseminating unlawful, discriminatory deeds of property transfer or restrictive agreements entered into by the defendant School Board, and for such other relief as herein-after more fully appears below.

18. This is also an action wherein injunctive relief against the Columbus Board defendant, to restrain them from the further misspending and dispersal of funds from an Eighty Nine and One-Half Million Dollar (\$89,500,000.00) School Building Bond Issue that was

approved by the voters of the Columbus School District on November 7, 1972. Said defendants are proceeding "with all deliberate speed" to get as much of their building program under way before the Court can act to resolve the issues presented here, thereby resulting in the segregative aspects of this program being set in concrete. In return for the vital minority support needed for the passage of this Building Levy in 1972, defendant School Board Members passed a resolution on July 18, 1972, stating that it shall be their goal and policy to prepare every student for life in an integrated society. The Black community had shown just how necessary their support was for passage of a School Building Levy by voting down the two previous Bond Issues for that purpose on May 4, 1971 and September 16, 1969. A majority of defendant Board Members have subsequently shown lack of good faith concerning the commitments that they made in return for said Black support that was delivered to them.

V. CAUSE OF ACTION

19. From the year 1829 until the repeal of the so-called "Black Laws", the common or public schools in Ohio and in the City of Columbus were segregated by law and thereafter the Columbus School Board, up to and including the present day, pursued policies, actions and committed acts hereinafter set forth which have resulted in continued and perpetual racially identifiable schools so that up to and including the date of filing of the original complaint herein, the defendants and their predecessors maintained 29 racially identifiable "Negro Schools" and 29 racially identifiable "White Schools" in the Columbus School District. In addition the defendant School Board has built or authorized additions to 24 schools which were built to serve black population and which were racially identifiable as Negro Schools at the

time of the erection of the schools or the additions thereto; the defendant School Board and its predecessors has also built 57 racially identifiable White Schools by use of housing patterns and attendance zones which would guarantee a substantially white student attendance in the said 57 schools.

20. Until 1973 and prior to the filing of the original complaint herein, the defendant Columbus School Board deliberately and knowingly segregated teachers and other faculty members on the basis of race. However, in 1973 a consent decree was arranged with the Ohio Civil Rights Commission and said defendant agreed to a pattern of faculty re-assignment in accordance with constitutional requirements. However, said defendants still segregate their principals, assistant principals and cadets on the basis of how the student bodies of the respective schools are racially identifiable.

VI. COUNT ONE

21. Plaintiff's complaint against the State defendant herein, namely the Ohio State Board of Education, Martin Essex, the Ohio Superintendent of Public Education, William J. Brown, Attorney General and John J. Gilligan, the Governor of said State, is the said State defendants acting through the defendant School Board of Columbus, its individual members and predecessors, have engaged in acts, practices, customs, and usages which have had the natural, probable, foreseeable, and actual effect of incorporating and maintaining racial segregation and discrimination in the Columbus School System in violation of the rights of the plaintiffs and their class not to be segregated on the basis of race in public schools.

22. The State defendant's action on their own and through the defendant Columbus School Board and its predecessors have deprived or assisted in depriving the

plaintiffs of their constitutional rights by committing, inter alia, the following acts:

(a) Permitting student assignment patterns with racially restricted patterns for many years as well as setting up School District Boundaries to enhance racial imbalance and segregation and unlawfully allowing segregated schools to exist since 1887.

(b) By allocation, appropriation and distribution of education funds to a local school district to wit, the Columbus School District, which was not in compliance with and had not conformed to Federal and State Laws.

(c) The defendant State School Board has refused to perform its duty under Ohio and Federal Laws with respect to the right of these plaintiffs and except, in the field of safety and health, has provided no machinery to monitor the broad authority delegated to the Defendant Columbus School Board.

(d) The defendant Attorney General has failed and refused to enforce the laws of the State of Ohio and the United States Constitution which protect the rights of the plaintiffs to equal access to the public school system, and the defendant Attorney General has failed to implement his own decisions and a Written Decision of his predecessor dated July 9, 1956, directed to defendant State Board.

(e) The State defendants have failed and refused to develop an affirmative action program to protect the constitutional rights of these plaintiffs.

VII. COUNT TWO

23. The defendant Columbus School Board, its members and their predecessors have, over the years, and are at present, deliberately and purposefully attempting to create, foster and maintain racial segregation within the school district by superimposing the so-called "Neighborhood School Concept" upon a racially segregated residential pattern with full knowledge that this so-called

concept would result in racial segregation in the Columbus Public School, reflective of said segregated residential patterns, and said defendants continue to maintain such a "neighborhood school" policy with the intent, purpose, and effect of creating, fostering, and maintaining school segregation along racial lines.

24. The defendant School Board with funds from an Eighty-Nine and One-half Million Dollar (\$89,500,000.00) School Bond Issue has proceeded ahead with plans for substantial building of school facilities in the suburban extremities of the white residential areas, these areas being the farthest from the Black residential area, and they are also using said funds for substantial building on, or adjacent to, the sites of their present racially identifiable Negro schools and by these acts they are contributing to a very long tradition and custom of segregated public schools in Columbus which would be preserved for future generations.

25. The defendant Columbus School Board and its members have utilized optional attendance zones to allow "White flight" from their "Negro Schools" and even to provide for "White flight" from schools which may be described as racially imbalanced. Said policy is causing further segregation and racial imbalance and plaintiffs say that, as certain schools in the Columbus School District have undergone transition to gradually increasing proportions of Negro pupil population, the defendants have pursued an attendance policy with respect to the areas of attendance and school boundaries, which has had the purpose, intent and effect of creating further racial segregation of pupils within the district.

26. The defendant Columbus School Board well know and recognize that they have not implemented the U. S. Supreme Court decisions following Brown vs The Board in 1954, and nevertheless, save for a token so-called "Freedom of Choice" program, and token faculty deseg-

regation, they have made no effort whatsoever to comply with these decisions, further evidencing a deliberate, purposeful intent on the part of the defendants to practice and pursue a policy of maintaining and perpetuating segregation in the public schools and the Board has refused to accept or follow the suggestions of reasonable and operable plans submitted to them by the Columbus Branch of the NAACP, (1966), The Columbus Urban League, (1967), and an Ohio State University Study financed and solicited by the defendant School Board itself (1969).

27. Plaintiffs say that the defendant Columbus School Board, in flagrant violation of the Constitution and in violation of the Fair Housing Law and of 42 U.S.C. 1986, said defendant has conspired with the Franklin County Recorder to place said Deeds on public record and said defendants have located schools under their administration and are locating schools in areas serving schools in which racial restrictive covenants cover the property adjacent to said schools.

28. Plaintiff allege that there are numerous other acts on the part of the defendant Columbus School Board, its members and the defendant John Ellis, Superintendent of the Columbus School Board indicating that said defendants have failed and refused to take all necessary steps to correct the effects of their policies, practices, customs and usages of racial discrimination in the operation of public school in the City of Columbus School community and to assure that such policies, customs, practices, and usages, now and hereafter conform to the requirements of the Thirteenth and Fourteenth Amendments.

VIII. COUNT THREE

29. Plaintiffs complaint against the defendant James A. Schaefer, Franklin County Recorder, is that he and those acting under his direction, and his predecessors, have continued to unlawfully record Deeds to property

purchased by the defendant School Board with public funds and that said Deeds have contained racially restricted covenants and that said covenants serve as instruments of racial discrimination and further enforce the defendant Columbus School Board's policy of unlawful segregation of blacks in racially identifiable schools.

30. Plaintiffs content that a continuation of such unlawful acts involves the State in private discrimination as well as public discrimination so as to violate the Thirteenth Amendment and 42 U.S.C. Section 1982 and that the Recorder's Office is such an essential part of the real estate market, before and after sale of property, that the recording of the aforementioned described instruments, the acceptance of them for recording, the display of them for official public view, and the inspection, copying and reproduction of them upon request, gives these covenants a legitimacy and effectiveness in the eyes of a layman which they do not have at law. Plaintiffs contend that the Title Abstract and recital of these covenants in title insurance policies obtained from such copies are further reproduction of the official records within the prohibition of 42 U.S.C. Section 3604 (c).

IX. EQUITY

31. The actions, omissions, and improper acquiescence of defendants recited above have violated the rights of plaintiffs and members of their class to freedom of association, freedom from the vestiges of slavery, right to due process and equal protection of the laws guaranteed by the First, Fifth, Thirteenth and Fourteenth Amendments to the Constitution of the United States and laws passed by Congress to implement these Amendments.

32. Plaintiffs and other members of their class have made numerous demands on defendants to end the racial segregation described herein, but to no avail. Plaintiffs and all others similarly situated and affected, on whose

action this was brought, are suffering irreparable injury and will continue to suffer irreparable injury, by reason of the patterns and practices complained of herein. Plaintiffs have no plain adequate remedy to redress the wrongs complained of herein other than this action for declaratory and injunctive relief. Any other remedy to which plaintiffs could be remitted would be attended by such uncertainties as to deny substantial relief and would cause further irreparable injury. The aid of this Court is sought in assuring the citizens of Columbus and in particular the Black public school children of the City of Columbus, and Columbus School District their basic rights as American Citizens set forth above.

X. PRAYER FOR RELIEF

33. WHEREFORE, plaintiffs, on their own behalf and on behalf of those similarly situated, pray that this Court will advance this case on the Docket, cause this case to be in every way expedited, hear this case at the earliest practicable date, and upon such hearing will:

1. Enjoin and restrain preliminarily during the pendency of this action, and permanently thereafter, the Columbus Board defendants and their successors from all further school construction, with the exceptions to be designated, until such time as a Constitutional Plan for operation of the Columbus Public Schools has been approved and new construction re-evaluated as a part thereof.

2. Adjudge and decree, pursuant to 28 U.S.C. Section 2201, that the actions of the defendants complained of herein are unconstitutional and void, as depriving plaintiffs and those similarly situated, due process and equal protection of the laws in contravention of the Fourteenth Amendment to the Constitution of the United States, of their right to freedom of association, in contravention of the First and Fourteenth Amendments, and of their right to be free from the vestiges of slavery, in contravention of the

Thirteenth Amendment to the Constitution of the United States.

3. Enter a decree enjoining the Columbus Board, defendants, and each of them, their agents, attorneys, assistants, successors, employees, and all persons acting in concert or cooperation with them or at their direction and under their control:

(a) From directly or indirectly continuing, maintaining, requiring, promoting, or encouraging, through their rules, regulations, resolutions, policies, directives, customs, practices, or usages, the segregation and separation by race of the pupils within said public schools.

(b) From any further creation, alteration, or enforcement of any boundaries for any school attendance area that is intended to or does in fact, discriminate on the basis of race.

(c) From any further creation or enforcement of optional attendance zones or permissive policies providing for "white flight" from racially identifiable Negro schools.

(d) From the pursuit of any further policy regarding the assignment of faculty and staff which is intended to or does in fact assign less experienced or less qualified faculty or staff to schools which are predominately Negro or in areas of low income.

(e) For continuing any policy, practice, custom, regulation, rule, or usage, not specified above, which is intended to or has the effect, directly or indirectly, or furthering, promoting, reviving, creating, maintaining, renewing, extending, entrenching, or perpetuating racial segregation in the public schools.

4. Order the State defendants to prepare and file with this Court, within a time which is both reasonable and certain, and which would allow sufficient time for implementation of such program at the

mid-point of the 1974-75 school term, a comprehensive plan for desegregation in the Columbus School community as a whole, and for each school therein which will effectively:

(a) Remove the traditional segregation and separation by race and social class within and among such schools ROOT AND BRANCH (*Green vs County School Board*, 391 U. S. 294; 75 S. Ct. 753);

(b) End the containment, restricting and/or confinement of the majority of Negro School children to racially identifiable schools, primarily found in the neighborhoods comprising Columbus's inner-city Ghettos;

(c) Remove any existing disparity in the resources allocated to such schools;

(d) Afford and ensure to every school child, regardless of race and regardless of the school which such child attends, an equal opportunity to attend schools which, from the standpoint of facilities, faculty and staff, are in fact equal or as nearly so as is practical and feasible under the circumstances;

(e) Afford and ensure to every school child, regardless of the school such child attends, an equal educational opportunity in fact; and,

(f) Insure a continuation of the desegregated state once it is brought about; and avoid resegregation, through the use of periodic re-adjustments of attendance areas to deal with population shifts, in order that the benefits of equal educational opportunity will not be temporary or transitory.

5. Enter a decree enjoining the State Defendants as well as the Columbus Board defendant, their agents, attorneys, successors, assistants, employees, and all persons acting in concert or cooperation with them or at their direction and under their control,

from approving budgets, making available state and local funds, approving employment and construction contracts, approving school sites, school plans, school additions, and approving policies, curriculum, and programs, which either are designed to or have the effect of maintaining, perpetuating, supporting, or re-introducing racial segregation and containment in the Columbus School community; said plan to be effective no later than the mid-point of the 1974-75 school term.

6. Enter a decree enjoining the defendant Franklin County Recorder, his employees, agents, assistants, attorneys, successors, and all persons acting in concert or cooperation with him or at his/their direction and under his/their control, in order that a broad policy of containment will no longer be served:

(a) From hereafter accepting and recording, in any of the County records, any racially-restrictive covenants in Deeds to land purchased by the defendant School Board.

(b) From hereafter accepting and recording, in any of the County records, any of the "post 1948 variety" of restrictive covenants or restrictive agreements; which while not making any specific mention or prohibition on grounds of race, religion, or ethnic ancestry, or worded so that they serve that same discriminatory purpose.

7. Order said Franklin County Recorder, his employees, agents, assistants, attorneys, successors, and all persons acting in concert with them, or at his/their direction or under his/their control, to place the following stamp on each of the restrictive covenants to be designated: "RACIALLY RESTRICTIVE COVENANTS, AND THOSE WHICH SERVE THAT PURPOSE, ARE NOW PROHIBITED BY LAW. See Misc. Vol. ..., P. ...," the latter designating the Miscellaneous volume where the Order of this Court shall be recorded.

8. Order said Franklin County Recorder, his employees, agents, assistants, attorneys, successors, and all persons acting in concert with them, or at his/their direction or under his/their control, to place this same stamp on any copies or reproductions henceforth made of any of the aforementioned varieties of restrictive agreements or covenants, that are not already so stamped.

9. That the Court fashion such remedies as may be appropriate pursuant to 42 U.S.C. Section 1988, where no such remedies presently exist.

10. That plaintiff recover their costs, attorneys' fees, out-of-pocket expenses, and such other relief as may appear to the Court just and proper.

[Subscription and Certificate of Service Omitted
in Printing]

ANSWER OF DEFENDANTS

**COLUMBUS BOARD OF EDUCATION, TOM MOYER,
PAUL LANGDON, VIRGINIA PRENTICE, MARILYN
REDDEN, WATSON WALKER, DAVID HAMLAR,
MARIE CASTLEMAN, AND JOHN ELLIS,
SUPERINTENDENT OF THE COLUMBUS
PUBLIC SCHOOLS,
TO PLAINTIFFS' SECOND AMENDED COMPLAINT**

[Filed November 4, 1974]

[Caption. Omitted in Printing]

First Defense

1. Defendants admit that Plaintiffs seek to bring this action under 28 U.S.C. §§ 1221(a), 1343(3) and (4), 2201 and 2202, 42 U.S.C. §§ 1981-1988, 2000(d), and 3601, et seq. Defendants deny that Plaintiffs have the right to bring an action under these sections or that a claim is stated thereunder, aver that there is no 28 U.S.C. § 1221(a) as alleged, and otherwise deny the allegations contained in Paragraph 1 of the Second Amended Complaint.

2. For want of knowledge, Defendants deny the allegations contained in Paragraph 2 of the Second Amended Complaint.

3. Defendants admit the allegations of Paragraph 3, 4 and 5 of the Second Amended Complaint.

4. Defendants deny the allegations contained in Paragraph 6 of the Second Amended Complaint.

5. Defendants admit that the powers and duties of the Defendants Ohio State Board of Education, Martin Essex, Superintendent of Public Instruction of the Ohio Department of Education, and William J. Brown, Attorney General of the State of Ohio, are provided for by the laws of the State of Ohio, but deny the other allegations of Paragraphs 7, 8 and 9 of the Second Amended Complaint.

6. Defendants admit the allegations of Paragraph 10 of the Second Amended Complaint.

7. Defendants admit that Plaintiffs purport to bring this action as a class action, but deny all other allegations contained in Paragraphs 11, 12, 13, 14, 15 and 16 of the Second Amended Complaint.

8. Defendants deny the allegations contained in Paragraphs 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, and 32 of the Second Amended Complaint.

9. Defendants deny each and every other allegation of the Second Amended Complaint not herein expressly admitted to be true.

Second Defense

10. The Second Amended Complaint fails to state a claim upon which relief can be granted against the Defendants and each of them.

Third Defense

11. The Plaintiffs are without standing before the court to maintain this action.

Fourth Defense

12. The Defendants Tom Moyer, Paul Langdon, Virginia Prentice, Marilyn Redden, Watson Walker, David Hamlar, Marie Castleman, and John Ellis are not proper parties in this action.

WHEREFORE, the Defendants ask that the Second Amended Complaint be dismissed and that they go hence without day.

[Subscription and Certificate of Service
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COMPLAINT IN INTERVENTION — CLASS ACTION

[Filed March 10, 1975]

[Caption Omitted in Printing]

1. The jurisdiction of this Court is invoked under 28 U.S.C. § 1331(a), 1343(3) and (4), this being a suit in equity authorized by 42 U.S.C. §§ 1983-1988 and 2000(d), to redress the deprivation under the color of Ohio law, statute, custom and/or usage of rights, privileges and immunities guaranteed by the Thirteenth and Fourteenth Amendments to the Constitution of the United States; by 42 U.S.C. § 1981 which provides that all persons within the jurisdiction of the United States shall have the same rights to the full and equal benefits of all laws and proceedings for the security of persons and property as is enjoyed by white citizens and by 42 U.S.C. 1982 which provides that all persons within the jurisdiction of the United States shall have the same rights as white citizens to purchase real property.

2. Plaintiffs in Intervention are all parents or minor children thereof, attending school in the public school system of the State of Ohio and in the City of Columbus. They are all citizens of the United States and bring this action each in their own behalf and on behalf of their minor children and on behalf of all persons similarly situated.

3. This is a class action brought by the intervening plaintiffs on behalf of themselves and all others similarly situated, pursuant to the provisions of Rule 23(a) and (b)(2) of the Federal Rules of Civil Procedure. Members of the class may be defined as follows: all children (approximately 98,000) who attend public schools within the Columbus Public School District and their parents or guardians. Members of the class are too numerous to bring before the Court, but are similarly affected by the action or inaction of the defendants in maintaining a dual discriminatory system of public education in Columbus and share common questions of fact and law with the named plaintiffs, namely whether the defendants acting under color of law, regulation, custom or usage have caused or permitted plaintiffs in intervention to be deprived of rights, privileges and immunities secured by the Constitution and Laws of the United States and the State of Ohio.

A common relief is sought and the intervening plaintiffs adequately represent the interest of the class since the parties defendant have acted or refused or neglected to act on grounds generally applicable to the class, thereby making injunctive relief appropriate with respect to the class as a whole.

4. The defendants, The Board of Education of the City of Columbus, organized and existing in Franklin County, Ohio, under and pursuant to the laws of the State of Ohio and operating the public school system of Columbus, Ohio, subject to the direction and control of said defendants.

5. The defendants, Tom Moyer, Paul Langdon, Marilyn Redden, Virginia Prentice, Watson Walker, David Hamler and Marie Castleman, are all residents of Franklin County, Ohio, and elected members of the Columbus Board of Education, Columbus, Ohio.

6. Defendant, John Ellis, is a resident of Franklin County and the duly appointed Superintendent of the Columbus School District, Columbus, Ohio.

7. Defendant, James A. Schaefer, is a resident of Franklin County and the duly elected Franklin County Recorder, and records and retains in his custody all Deeds of Real Estate in Franklin County, Ohio.

8. The defendant, The Ohio State Board of Education, located in Columbus, Ohio, is a constitutionally incorporated body charged with the primary responsibility of administering public education in the public school systems of Ohio, including the Columbus Public School District and its total school community.

9. The defendant, Martin W. Essex, a Franklin County resident, is Superintendent of Public Instruction of the Department of Education of the State of Ohio, and is Chief Administrative Officer for public education in the State of Ohio.

10. The defendant, William J. Brown, Franklin County resident and the Attorney General of the State of Ohio, is responsible for enforcing the Laws and Constitution of the State of Ohio.

11. The defendant, James Rhodes, Governor of the State of Ohio, is a Franklin County resident.

12. All defendants herein are used individually and in their official capacities. Relief is also sought against defendants' agents, attorneys, assistants, successors, employees, and all persons acting in concert or cooperation with them, or at their direction or under their control.

13. This is a proceeding for a preliminary and a permanent injunction enjoining the defendants from continuing their policy, practice, custom and usage of constructing and operating the public schools in Columbus, Ohio in a manner which has the purpose and effect of perpetuating racial and economic segregation in the public schools and for such other relief as hereinafter more fully appears. The State Board of Education and other defendants by their actions and inactions have effected racial segregation and discrimination in the operation of the Columbus public schools in violation of the rights secured to plaintiffs by

the Fourteenth Amendment to the Constitution of the United States, and Article 1, Section 2 of the Constitution of Ohio.

14. The defendants and their predecessors acting through sub-units of state governments have engaged in acts, practices, customs and usages which have had the natural, probable, foreseeable and actual effect of incorporating public and private residential racial segregation and discrimination into the Columbus school system in violation of the rights of plaintiffs in intervention under the Thirteenth and Fourteenth Amendments to the Constitution of the United States.

15. Through its various instrumentalities, including but not limited to zoning boards, planning commissions and departments, licensing agencies, state-approved realtor organizations, public housing and urban renewal authorities, the defendants herein, and others, by various methods, including but not limited to State laws or local ordinances prescribing minimum lot sizes and the construction of publicly-assisted housing facilities, the location of parks and highways, and pursuant to a policy of racial discrimination, the State and other defendants have established a pattern, practice, custom and usage of racial residential segregation of blacks to prescribed residential areas in the City of Columbus and have superimposed pupil assignment, school construction and zoning with the natural probable foreseeable and actual effect of requiring the black and white plaintiffs in intervention to attend racially segregated schools.

16. Through its various instrumentalities, but not limited to zoning boards, planning commissions and departments, licensing agencies, state-approved realtor organizations, public housing, urban renewal authorities and school boards, the defendants herein, and others, have exploited the plaintiffs through a situation created by governmental and socio-economic forces tainted by racial residential segregation with the effect of requiring the black and white

plaintiffs in intervention to attend racially segregated schools in the City of Columbus.

17. In the operation of the Columbus school system, the defendants have seized upon and taken advantage of the opportunity created by racial residential segregation to contain the black plaintiffs in intervention to certain racially segregated schools by their policies and practices of drawing school attendance boundaries, pupil assignment practices, school construction, additions and financing with the result that the patterns created by racial residential segregation have been re-enforced in such a manner as to aggravate the existing racially discriminatory actions, both public and private discriminatory policies, customs, practices and usages and have resulted in a dual public school system in Columbus composed of predominately minority group schools and predominately white schools.

18. The Columbus Board of Education and the State defendants have conducted and had presented to them numerous studies for the purpose of determining the best method of eliminating the pattern of racial segregation in the public schools in the Columbus area. They have failed to act despite the knowledge that the effect of such inaction would be greater segregation.

19. The Columbus Board of Education and the State defendants have approved a pattern of school construction within the perimeter of the City of Columbus which has resulted in the establishment of school complexes having an overwhelming white enrollment, which provides a school house for white students to the exclusion of black students and facilitates the maintenance of the pattern of racial separation in the public schools of the City of Columbus. At the same time, the Columbus Board of Education and the State defendants have continued their policy of school construction and additions which have resulted in the containment of the black population to racially identifiable black schools. Said policies extend to the assignment of principals, assistant principals and cadets in ac-

cordance with the racial identifiability of the Columbus public schools.

20. In at least two instances the State Board of Education has acted to require consolidation of school districts in Ohio to eliminate racial segregation between the districts as well as to equalize educational resources available to citizens of the consolidated districts. The State defendants have a policy of merging and consolidating schools and school districts to better educational opportunity for school children. The State defendants acting through subunits of state government including the local defendants and their predecessors and otherwise, have engaged in acts, practices, customs and usages which have had the natural, probable, foreseeable, and actual effect of incorporating into school systems serving the Columbus area, the private residential racial segregation and discrimination in violation of the rights of plaintiffs not to be segregated on the basis of race in public schools or school districts.

21. The State defendants acting through their predecessors and otherwise have allocated and permitted to be allocated educational resources in a manner that has had the natural, probable, foreseeable and actual effects in the Columbus area of:

(a) Discriminating in the provision of school facilities and other educational resources on the basis of race against children attending the public schools within the city of Columbus;

(b) Establishing and maintaining the pattern of racially separate schools and school systems in violation of the rights secured to plaintiffs and their class under the Fourteenth Amendment to the United States Constitution and the Constitution and Laws of the State of Ohio.

22. The defendants' present method of operating separate school attendance boundaries in the Columbus school system with the discriminatory effects described herein is not required for the fulfillment of any valid state educa-

tional objective nor any compelling state interest which could not be equally or better served by a different set of boundaries which did not incorporate racial segregation.

23. Although educationally sound, feasible, and practical, alternative methods of school organizations are reasonably available to the defendants and the implementation of such alternatives would fulfill the defendants' educational objectives, the defendants have failed to select such alternatives resulting in aggravating racial segregation and inequitable allocation of educational resources.

24. Throughout the Columbus school system during the 1974-75 school year, of 168 programs at all levels, there are 16 Senior High Schools, 26 Junior High Schools and 124 Elementary Schools.

The total enrollment for the Columbus School System is 98,016, of these there are 22,436 in Senior High School, 21,795 in Junior High School and 53,334 in the Elementary School.

Senior High School

25. Within the Senior High School there are 22,436 students of which there are 7,539 (34%) black and 14,824 non-black students, including 6 American Indians, 42 Asian Americans and 25 Spanish surname students. Over half (57%) or 4,317 of the total black senior high school population of 7,359 are assigned to the 5 schools which have 60-99% black enrollment, while 80% or 12,111 of the total non-black population is assigned to schools having 60-99% non-black enrollment. There are 6 predominately white schools having a total enrollment of 10,526 and of this only 703 or 6% are black.

Junior High School

26. Within the Junior High School there are 26 school programs. Of these, 5 are racially identifiable black (60-99%), and 21 racially identifiable white schools (60-99%).

Of the total black junior high school enrollment of 6,446, 48% or 3,100 of the students are assigned to the 5 racially identifiable black schools.

Elementary School

27. Within the 124 elementary schools, there are 35 racially identifiable black and 89 racially identifiable white schools. Twenty-five being 80-99% black; 10 being 50-80% black; 11 being 25-50% black; 78 being 1-25% black. Of the total elementary school population of 53,344, 30% or 16,333 of the enrollment is black. Of this black population, (78% or 12,841) attend the 35 schools which are 60-99% black. The remaining 41% (6,721) attend the 89 majority non-black schools.

28. On all three educational levels of the Columbus, Ohio School System, approximately half of the total black population is assigned to schools which are 60-99% black. Fifty-five (55%) per cent in the senior high schools in 5 out of 16 schools; 48% of the junior high schools in 5 out of 26 schools; and 78% of the elementary school in 35 out of 124, in a school system with a total black enrollment of 30%.

29. Of the total number of school programs, on all levels, 81 of the 168 schools have 90% or more non-black enrollment. Thirty-two (32) schools have an 80-99% black enrollment in a school system with a total black enrollment of 30%.

30. Until 1973, the Columbus Board of Education segregated faculty members on the basis of race. In 1973, a Consent Decree was arranged with the Ohio Civil Rights Commission, after the case at bar was filed. The Consent Decree fixed certain Constitutional requirements of faculty desegregation. However, the defendants still segregate principals, assistants, and cadets on the basis of race consistent with job assignments in the respective racially segregated schools. The effects of the racial identification of

schools imposed by such purposeful faculty segregation have not been dissipated.

31. The intervening plaintiffs allege that the defendants herein acting under color of the laws of the State of Ohio have pursued and are presently pursuing a policy, custom, practice and usage of operating, managing and controlling the Columbus public school system in a manner that has the purpose and effect of perpetuating a segregated public school system. Such racially discriminatory policies and practices have included assigning students, designing attendance zones for elementary, junior, and senior high schools, establishing feeder patterns to secondary schools, planning future public educational facilities, constructing new schools, and utilizing and building upon the existing racially discriminatory patterns in both public and private housing on the basis of the race and color of the children who are eligible to attend said schools.

32. The defendants have failed and refused to take all necessary steps to correct the effects of their policies, practices and customs and usages of racial discrimination in the operation of public schools in the City of Columbus in order to assure that such policies, customs, practices, and usages, now and hereafter, conform to the requirements of the Thirteenth and Fourteenth Amendments to the Constitution of the United States. The intervening plaintiffs and all those similarly situated and affected on whose behalf this action was brought, are suffering irreparable injury and will continue to suffer an irreparable injury by reason of the patterns and practices complained of herein. The intervening plaintiffs have no plain, adequate or complete remedy to redress the wrongs complained of herein other than this action for preliminary and injunctive relief. Any other remedy to which these plaintiffs could be remitted would be attended by such uncertainties as to deny substantial relief and would

cause further irreparable injury. The aid of this Court is sought in assuring the citizens of Columbus and in particular the black and economically deprived public school children of the City of Columbus and the Columbus metropolitan area, equal protection and due process of law under the Fifth, Thirteenth and Fourteenth Amendments of the United States Constitution.

WHEREFORE, THE INTERVENING PLAINTIFFS RESPECTFULLY PRAY that upon the filing of the Complaint, the Court grant a preliminary and permanent injunction:

- (a) Requiring defendants, their agents and other persons acting in concert with them to develop and implement a "system wide" plan of desegregation which will provide for the elimination of the pattern of racial segregation in the Columbus public school system at the beginning of the 1975-1976 school year.
- (b) Restraining defendants from all further school construction until such time as a constitutional plan for the operation of the Columbus public schools has been approved and new construction plans re-evaluated as a part thereof.
- (c) Requiring defendants to assign for the 1975-1976 school year, principals, faculty and other school personnel to each school in the system in accordance with the ratio of white and black principals, faculty and other school personnel throughout the system where such ratio does not already exist.
- (d) Order the State defendants to prepare and file with the Court a plan for desegregation of the Columbus public schools.
- (e) Advance this cause on the docket and order speedy hearing of this action according to law and upon such hearing, issue preliminary and permanent decrees enjoining the defendants, their agents, attorneys and successors from continuing to utilize any policies, customs, practices and usages described

herein which have the purpose or effect of leaving intact or establishing racially identifiable schools.

(f) Enter a decree enjoining the State defendants as well as local defendants, their agents, attorneys and successors from approving budgets, making available state and local funds, approving employment and construction contracts, approving school sites, school plans, school additions and approving policies, curriculum and programs which either are designed to or have the effect of maintaining, perpetuating or supporting racial segregation and containment in the Columbus public school system.

(g) Award intervening plaintiffs fees to their attorneys for services rendered and to be rendered by them in this cause and allow plaintiffs all out-of-pocket expenses of this action and such other relief as may appear to the Court to be equitable and just.

Respectfully submitted,

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[Certificate of Service Omitted in Printing]

MEMORANDUM AND ORDER

[Filed March 10, 1975]

[Caption Omitted in Printing]

Applicants are before the Court with a motion to intervene as party plaintiffs in this class action suit against the Columbus School Board and various state and local officials for alleged discriminatory policies and practices in the operation of the city's public school system.

The applicants base their motion on two grounds. First, they seek to intervene as of right pursuant to Rule 24(a)(2), Fed. R. Civ. P. This Rule provides that upon timely application anyone shall be permitted to intervene

when the applicant claims an interest relating to the property or transaction which is the subject of the action and he is so situated that the disposition of the

action may as a practical matter impair or impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

To intervene as of right, therefore, the application must (1) be timely, (2) show an interest in the subject matter of the action, (3) show that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect his interest, and, finally, (4) show that the interest is not adequately represented by an existing party.

The threshold question in any motion to intervene is that of timeliness. In their respective memoranda filed in opposition to this motion the original parties cite the fact that this lawsuit was originally filed on June 21, 1973, some twenty months ago. The amount of time which has elapsed since the original complaint was filed, however, is not the sole factor to be considered when determining the timeliness of a motion to intervene. (See *NAACP v. New York*, 413 U.S. 345, 366 (1973) wherein the Supreme Court reiterated this idea and further stated that "timeliness is to be determined from all the circumstances.") Intervention is proper where the substantial litigation of the issues has not begun when the motion to intervene is filed. Under such circumstances, intervention has even been allowed several years after the commencement of suit. See 3B *Moore's Federal Practice*, ¶ 24.13[1]. In the instant case the Court has allowed the filing of two amended complaints, the last of which was filed as recently as October 24, 1974. In such circumstances I do not feel that this motion to intervene can be said to be untimely; no substantial litigation on the issue raised herein has in fact occurred.

Plaintiffs herein purport to represent a class consisting of all children who are or will be attending school within the Columbus Public School District. Applicants for intervention purport to represent all children who attend

schools within the Columbus Public School District. Thus, except for the different individually-named plaintiffs of each, both seek to represent the same class. Further, both plaintiffs and applicants seek to protect similar if not identical interests. As a practical matter, therefore, disposition of this case will affect the applicants' ability to protect their asserted interests.

Thus, the only determination remaining to be made concerns the adequacy of the representation by plaintiffs' counsel. As the rule set out above states, intervention shall be allowed *unless* the applicants' interests are adequately represented by existing parties. Judge, now Justice, Blackmun once said that inadequacy of representation could be shown "by proof of collusion between the representative and an opposing party, by the representative having or representing an interest adverse to the intervenor, or by the failure of the representative in the fulfillment of his duty." *Stadin v. Union Electric Co.*, 309 F.2d 912, 919 (8th Cir. 1962), *cert. denied* 373 U.S. 915 (1963). It is argued herein that representation is adequate if there has been no collusion between the class representative and the opposing party or if the representative is not alleging an interest adverse to the applicant or, finally, if the representative will not fail in the fulfillment of his duty to the class. However, it is one thing to say that inadequacy of representation has been shown by establishing one of these circumstances; it is quite another to find representation adequate unless one of these is present. In the instant case the would-be intervenors claim that "the approaches taken and issues raised, therefore, by the original plaintiffs are different than the approaches and issues adopted by the applicants for intervention." In such a situation, they contend the Court should be influenced "by the extent of the applicant's interest and in part by the contribution he can make to the Court's understanding of the case in light of his knowledge and concern." Support for this contention is found in *Trbovich v. United Mine Workers of America*,

404 U.S. 528 (1971). In *Trbovich* Mr. Justice Marshall, speaking for the Court, noted:

The requirement of the Rule is satisfied if the applicant shows that representation of his interest 'may be' inadequate; and the burden of making that showing should be treated as minimal. (Citation omitted.)

Trbovich, *supra* at 538.

Finally, this Court is mindful of, and is in agreement with, the view expressed by some commentators that the overall effect of the recent changes to Rules 23 and 24 is to grant members of a Rule 23(b)(2) class, as we have here, a more liberal right to intervene in the original class action. See 3B *Moore's Federal Practice*, ¶ 23.90[2]. For the above reasons I find that intervention as of right should be granted these applicants.

Even assuming *arguendo*, however, that the applicants may not intervene as of right, they have also moved for permissive intervention pursuant to Rule 24(b)(2), Fed. R. Civ. P., and I find that this motion should be granted. Rule 24(b)(2) states that upon timely application anyone may be permitted to intervene in an action

when an applicant's claim or defense and the main action have a question of law or fact in common.

A motion under this rule is directed to the sound discretion of the Court. In exercising this discretion the Court is only required by the rule to consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties. There appears to be no dispute among the various parties that the requisite element of commonality of fact and law is present; the only question is whether undue delay or prejudice will result. Certainly it can be said that additional parties always require at least some additional time. But to find this determinative is to do away with permissive intervention. In the instant case I find no factor present which would lead

to the conclusion that adjudication will be delayed or prejudiced. This is not a case where the issues have begun to be litigated in court or where the issues have already been decided adversely to the applicants. Although the Court presumes that discovery is ongoing at the present time, applicants' counsel, who appear to be highly skilled in this area of the law, should have no problem familiarizing themselves with the progress of the case to date. Because there would appear to be little likelihood of delay and prejudice and because intervention in class actions such as this should be liberally construed, see *Hall v. Warthon Bag Corporation*, 251 F. Supp. 184 (M.D. Tenn. 1966), I find that applicants herein should be allowed intervention in this matter.

For the reasons set forth above, the motion to intervene is GRANTED.

It is so ORDERED.

ROBERT M. DUNCAN, Judge
United States District Court

ANSWER OF DEFENDANTS
COLUMBUS BOARD OF EDUCATION, TOM MOYER,
PAUL LANGDON, VIRGINIA PRENTICE, MARILYN
REDDEN, WATSON WALKER, DAVID HAMLAR,
MARIE CASTLEMAN, AND JOHN ELLIS,
SUPERINTENDENT OF THE COLUMBUS
PUBLIC SCHOOLS,
TO COMPLAINT IN INTERVENTION

[Filed April 1, 1975]

[Caption Omitted in Printing]

First Defense

1. Defendants admit that plaintiffs seek to bring this action under 28 U.S.C. §§ 1331(a), 1343(3) and 1343(4), and 42 U.S.C. §§ 1981-1988, 2000(d). Defendants deny

that plaintiffs have the right to bring an action under these sections or that a claim is stated thereunder, and otherwise deny the allegations contained in Paragraph 1 of the Complaint in Intervention.

2. For want of knowledge, defendants deny the allegations contained in Paragraph 2 of the Complaint in Intervention.

3. Defendants admit that plaintiffs purport to bring this action as a class action, but deny all other allegations contained in Paragraph 3 of the Complaint in Intervention.

4. Defendants admit the allegations of Paragraph 4 of the Complaint in Intervention.

5. Defendants deny that Tom Moyer is presently an elected member of the Columbus Board of Education, and admit the remaining allegations contained in Paragraph 5 of the Complaint in Intervention.

6. Defendants admit the allegations contained in Paragraph 6 of the Complaint in Intervention.

7. Defendants deny the allegations contained in Paragraph 7 of the Complaint in Intervention.

8. Defendants admit that the powers and duties of the defendants Ohio State Board of Education, Martin Essex, Superintendent of Public Instruction of the Ohio Department of Education, and William J. Brown, Attorney General of the State of Ohio, are provided for by the laws of the State of Ohio, but deny the other allegations of Paragraphs 8, 9 and 10 of the Complaint in Intervention.

9. Defendants admit the allegations of Paragraph 11 of the Complaint in Intervention.

10. Defendants admit that the defendants are sued individually and in their official capacities, deny that such is proper, and deny all other allegations contained in Paragraph 12 of the Complaint in Intervention.

11. Defendants admit that plaintiffs are seeking preliminary and permanent injunctive relief, but deny their right to do so or that a claim has been made therefor and

the other allegations of Paragraph 13 of the Complaint in Intervention.

12. Defendants deny the allegations contained in Paragraphs 14, 15, 16, 17, 18, 19, 20, 21, 22 and 23 of the Complaint in Intervention.

13. Defendants admit that the figures alleged in Paragraph 24 of the Complaint in Intervention are approximately accurate and correct, but deny the exactness of said allegations.

14. Defendants deny the allegations contained in Paragraphs 25, 26, 27, 28, 29, 30, 31 and 32 of the Complaint in Intervention.

15. Defendants deny each and every other allegation of the Complaint in Intervention not herein expressly admitted to be true.

Second Defense

16. The Complaint in Intervention fails to state a claim upon which relief can be granted against the defendants and each of them.

Third Defense

17. The plaintiffs-intervenors are without standing before the Court to maintain this action.

Fourth Defense

18. The defendants Tom Moyer, Paul Langdon, Virginia Prentice, Marilyn Redden, Watson Walker, David Hamlar, Marie Castleman, and John Ellis, are not proper parties in this action.

WHEREFORE, the defendants ask that the Complaint in Intervention be dismissed at the cost of the plaintiffs-intervenors.

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ORDER

[Filed April 9, 1975]
[Caption Omitted in Printing]

This matter came on before the Court on plaintiffs' Motion that their Complaint be maintained as a class action and the Court being fully advised in the premises finds that no objections have been made to said Motion. The Court further finds that the plaintiffs are representative of the class which seeks relief herein, said class consisting of all children attending public schools in the Columbus Ohio School District together with their parents or guardians. The Court also finds that there are questions of law and fact common to the class and that the claims of the plaintiffs will fairly and adequately protect the interests of all the members of the class.

The Court further finds that this action is maintained under Federal Rule of Civil Procedure 23, (1) and (2), and that notice to other members of the class represented by the plaintiff is therefore not mandatory; however, the Court also finds that this action has been given widespread publicity by the local news media during the period which this suit has been pending.

Upon consideration the Court determines the Motion of the plaintiffs to be meritorious and, the request that this suit be maintained as a class action is hereby granted.

It is so ORDERED.

ROBERT M. DUNCAN, JUDGE
United States District Court

Nos. 77-8315-16

United States Court of Appeals

FOR THE SIXTH CIRCUIT

GARY L. PENICK, et al.,
Plaintiffs-Appellees,

vs.

COLUMBUS BOARD OF
EDUCATION, et al.,
Defendants-Appellants.

COLUMBUS BOARD OF
EDUCATION,
Intervenor-Appellee.

COLUMBUS EDUCATION
ASSOCIATION,
Proposed Intervenor-Appellant.

ORDER
[Filed June 29, 1977]

Before: EDWARDS, CELEBREZZE and PECK,
Circuit Judges.

Defendants Columbus Board of Education, et al., and Ohio State Board of Education, et al., petition this court for leave to appeal under 38 U.S.C. § 1292(b) (1970), asserting that certain findings and orders of the United States District Court entered in the above-styled cause involve a controlling question of law as to which there is a substantial difference of opinion and that an immediate appeal may materially advance the ultimate termination of litigation. The District Judge has *sua sponte* certified his belief that such a controlling question of law exists.

In his opinion the District Judge entered the following findings pertaining to the Columbus Board of Education:

From the evidence adduced at trial, the Court has found earlier in this opinion that the Columbus

Public Schools were openly and intentionally segregated on the basis of race when *Brown I* was decided in 1954. The Court has found that the Columbus Board of Education never actively set out to dismantle this dual system. The Court has found that until legal action was initiated by the Columbus Area Civil Rights Council, the Columbus Board did not assign teachers and administrators to Columbus schools at random, without regard for the racial composition of the student enrollment at those schools. The Columbus Board even in very recent times, has approved optional attendance zones, discontinuous attendance areas and boundary changes which have maintained and enhanced racial imbalance in the Columbus Public Schools. The Board, even in very recent times and after promising to do otherwise, has abjured workable suggestions for improving the racial balance of city schools.

Viewed in the context of segregative optional attendance zones, segregative faculty and administrative hiring and assignments, and the other such actions and decisions of the Columbus Board of Education in recent and remote history, it is fair and reasonable to draw an inference of segregative intent from the Board's actions and omissions discussed in this opinion.

Concerning the Ohio State Board of Education and its Superintendent, the District Judge found:

The failure of these state defendants to act, with full knowledge of the results of such failure, provides a factual basis for the inference that they intended to accept the Columbus defendants' acts, and thus shared their intent to segregate in violation of a constitutional duty to do otherwise.

The District Court thereupon permanently enjoined the defendants from "discriminating on the basis of race in the operation of the Columbus Public Schools," and directed defendants to formulate plans for desegregation of

the Columbus Public Schools and enjoined new school construction, absent prior approval of the court.

Leave to appeal from the findings which held defendants responsible for unconstitutional segregation at the Columbus Public Schools and ordered desegregation thereof and orders of the District Court is hereby granted. In the public interest, the case will be advanced for hearing on this court's calendar as soon as briefing is completed.

Entered by order of the Court
John P. Hehman, Clerk

By GRACE KELLER

Grace Keller, Chief Deputy

**MOTION OF THE OHIO STATE BOARD OF
EDUCATION AND SUPERINTENDENT OF
PUBLIC INSTRUCTION FOR SUPPLEMENTAL
FINDINGS OF FACT.**

[Filed July 11, 1977]

[Caption Omitted in Printing]

These state defendants respectfully request the Court to supplement the findings of fact previously made in its Memorandum and Order of March 8, 1977. The reason for this motion is given in the accompanying brief.

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BRIEF

On June 27, 1977 the Supreme Court announced its decision in *Dayton Board of Education v. Brinkman*, . . . U.S. . . (1977). We will not attempt any detailed description of that opinion or the procedural history which preceded it since we are sure that the court is fully informed. Suffice it to say that it provides important clarification with respect to the remedies that may now be formulated in school desegregation cases. Inasmuch as we are now in the phase of the present case where a remedy for Columbus must be developed, it is important that we proceed in accordance with the Supreme Court's most recently declared requirements. Writing for a unanimous court Mr. Justice Rehnquist said:

The duty of both the District Court and Court of Appeals in a case such as this, where mandatory segregation by law of the races in the schools has long since ceased, is to first determine whether there was any action in the conduct of the business of the school board which was intended to, and did in fact, discriminate against minority pupils, teachers or staff. *Washington v. Davis, supra*. All parties should be free to introduce such additional testimony and other evidence as the District Court may deem appropriate. If such violations are found, the District Court . . . must determine how much incremental segregative effect these violations had on the racial distribution of the Dayton school population as presently constituted, when that distribution is compared to what it would have been in the absence of such constitutional violations. The remedy must be designed to redress

that difference, and only if there has been a system-wide impact may there be a systemwide remedy.

Slip opinion, 13-14.

The difficulty of this task was recognized explicitly:

We realize that this is a difficult task, and that it is much easier for a reviewing court to fault ambiguous phrases such as 'cumulative violation' than it is for the finder of fact to make the complex factual determinations in the first instance. Nonetheless, that is what the Constitution and our cases call for, and that is what must be done in this case.

Id., 14.

The state defendants respectfully request this Court to supplement the findings of fact previously made in its Memorandum and Order of March 8, 1977 in order to define "how much incremental segregative effect [the defendants'] violations had on the racial distribution of the [Columbus] school population as presently constituted, when that distribution is compared to what it would have been in the absence of such constitutional violations." *Dayton, supra*.

The need for supplementary findings of fact stems from this Court's limited description of the present effects of the violations which the Court found, together with the absence of any finding comparing the present racial distribution of the student population with what it would have been if such violations had not occurred. This difference is absolutely critical to the formulation of any remedy for, "The remedy must be designed to redress that difference. . . ." *Dayton, supra*.

Two days after Dayton was decided the Supreme Court confirmed the critical importance of the language noted above in *School District of Omaha v. United States*, . . . U.S. . . (June 29, 1977). The Court granted certiorari and then vacated the decision of the Eighth Circuit Court

of Appeals which had affirmed the remedy order for Omaha. In remanding that case for consideration in the light of *Village of Arlington Heights* and *Dayton*, the Supreme Court observed that neither the Court of Appeals nor the District Court "addressed itself to the inquiry required by our opinion in . . . *Dayton* . . . in which we said:

'If such violations are found, the District Court in the first instance, subject to review by the Court of Appeals, must determine how much incremental segregative effect these violations had on the racial distribution of the Dayton school population as presently constituted, when that distribution is compared to what it would have been in the absence of such constitutional violations. The remedy must be designed to redress that difference, and only if there has been a system-wide impact may there be a system-wide remedy.' Slip op., 13-14."

School District of Omaha, supra, 2.

The Supreme Court decided Milwaukee's petition for certiorari on the same basis in *Brennan v. Armstrong*, . . . U.S. . . (June 29, 1977). The District Court in Milwaukee had found the local defendants liable and had certified the case for interlocutory appeal, as this Court has done. The Court of Appeals for the Seventh Circuit affirmed the District Court's findings on liability. The school board petitioned for certiorari. The Supreme Court granted it, vacated the judgment of the Court of Appeals and remanded for consideration in the light of *Village of Arlington Heights* and *Dayton*. Once again the Supreme Court observed that neither lower court had "addressed itself to the inquiry mandated by our opinion in . . . *Dayton* . . . in which we said:

'If such violations are found, the District Court in the first instance, subject to review by the Court of Appeals, must determine how much incremental segregative effect these violations had on the racial

distribution of the Dayton school population as presently constituted, when that distribution is compared to what it would have been in the absence of such constitutional violations. The remedy must be designed to redress that difference, and only if there has been a system-wide impact may there be a system-wide remedy.' Slip op., at 13-14."

Brennan v. Armstrong, supra, 1.

The findings of fact in this Court's Memorandum and Order of March 8, 1977 do not address the inquiry mandated by *Dayton*, *Omaha* and *Brennan v. Armstrong*. Those findings are therefore insufficient to permit the formulation of an appropriate remedy. We respectfully suggest that a remedy cannot be fashioned in accordance with current constitutional requirements until this Court first defines the incremental segregative effects which the violations had on the racial distribution of the Columbus school population as presently constituted, comparing that distribution to what it would have been had such constitutional violations not occurred.

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**MOTION OF COLUMBUS BOARD OF EDUCATION
AND DR. JOSEPH L. DAVIS, INTERIM SUPERIN-
TENDENT OF COLUMBUS PUBLIC SCHOOLS,
FOR DETERMINATION OF INCREMENTAL
SEGREGATIVE EFFECTS**

[Filed July 11, 1977]

[Caption Omitted in Printing]

Defendants Columbus Board of Education and Dr. Joseph L. Davis, Interim Superintendent of Columbus Public Schools, respectfully move the Court to determine how much incremental segregative effect the constitutional

violations found in its March 8, 1977 Opinion and Order had on the racial distribution of the Columbus school population as presently constituted in each elementary, junior and senior high school, when that distribution is compared to what the racial composition of the Columbus school population would have been in the absence of such constitutional violations in each elementary, junior and senior high school in the system.

MEMORANDUM IN SUPPORT

On June 27, 1977 the Supreme Court announced its decision in *Dayton Board of Education v. Brinkman*, — U.S. — (1977). The Court vacated a Sixth Circuit Court of Appeals decision which had upheld a remedy plan requiring that the racial distribution of each school be brought within 15% of the 48%-52% black-white population ratio of the Dayton schools.

Mr. Justice Rehnquist, writing for a unanimous Court, set forth the following duties of lower courts in school desegregation cases:

"The duty of both the District Court and the Court of Appeals in a case such as this, where mandatory segregation by law of the races in the schools has long since ceased, is to first determine whether there was any action in the conduct of the business of the school board which was intended to, and did in fact, discriminate against minority pupils, teachers or staff. *Washington v. Davis*, *supra*. All parties should be free to introduce such additional testimony and other evidence as the District Court may deem appropriate. If such violations are found, the District Court in the first instance, subject to the review by the Court of Appeals, must determine how much incremental segregative effect these violations had on the racial distribution of the Dayton school population as presently constituted, when that distribution is compared to what it would have been in the absence of such constitutional violations. The remedy must be designed

to redress that difference, and only if there has been a systemwide impact may there be a systemwide remedy. *Keyes*, *supra*, at 213."

Dayton Board of Education v. Brinkman, Slip Opinion at 12-14.

The Columbus defendants respectfully submit that *Dayton* requires the Court to determine the "incremental segregative effect" of the constitutional violations identified in its March 8, 1977 Opinion and Order before any remedy can be required. The *Dayton* case also instructs the Court on the method of determining such effect. The Court must compare the racial distribution of the Columbus school population as presently constituted to what the racial distribution would have been in the absence of the constitutional violations found. It is the difference yielded from that comparison that must be remedied. *Dayton*, — U.S. —, Slip Opinion at 13-14.

The applicability of *Dayton* to other school desegregation cases was illustrated in two Supreme Court announcements on June 29, 1977. In both cases, the Supreme Court vacated lower court judgments and remanded for reconsideration in light of *Dayton*.

In *School District of Omaha v. United States*, — U.S. — (Slip Opinion June 29, 1977), the district court had originally found in favor of the school system and had dismissed the complaint. 389 F. Supp. 293 (D. Neb. 1974). On appeal, the Eighth Circuit reversed, held that the segregation in the Omaha schools must be eliminated "root and branch," and remanded with directions and guidelines for development of a system-wide remedy. 521 F.2d 530 (8th Cir. 1975). In particular, the Court of Appeals found:

"We conclude that, in five decision-making areas, the appellants produced substantial evidence that the defendants' actions and inactions in the face of tendered choices had the natural, probable and foreseeable consequence of creating and maintaining segregation. The five areas include faculty assignment, student

transfers, optional attendance zones, school construction, and the deterioration of Tech High. The proof in each area was sufficient in and of itself to trigger the presumption of segregative intent. We also conclude that the defendants failed to carry their burden of establishing that segregative intent was not among the factors which motivated their actions. Accordingly, we hold that the segregation in the Omaha public schools violates the Constitution and must be 'eliminated root and branch.' *Green v. School Board of New Kent County*, 391 U.S. 430, 88 S.Ct. 1689, 20 L.Ed.2d 716 (1968). [Footnote omitted.]

United States v. School District of Omaha, 521 F.2d at 537.

The Supreme Court denied certiorari. 423 U.S. 946 (1975).

On remand, the district court ordered a comprehensive, system-wide student integration plan in accordance with the Eighth Circuit's express guidelines. 418 F. Supp. 22 (D. Neb. 1976). The plan was affirmed by the Court of Appeals. 541 F.2d 708 (8th Cir. 1976). The Supreme Court's June 29 decision vacated the Eighth Circuit's decision affirming the system-wide remedy because neither the Court nor the district court had addressed the "inquiry required by our opinion" in *Dayton*. The Supreme Court said:

"Neither the Court of Appeals nor the District Court, in addressing themselves to the remedial plan mandated by the earlier decision of the Court of Appeals, addressed itself to the inquiry required by our opinion in No. 76-539, *Dayton Board of Education v. Brinkman*, in which we said:

'If such violations are found, the District Court in the first instance, subject to review by the Court of Appeals, must determine how much incremental segregative effect these violations had on the racial distribution of the Dayton school population as presently constituted, when that distribution is compared to what it would

have been in the absence of such constitutional violations. The remedy must be designed to redress that difference, and only if there has been a system-wide impact may there be a system-wide remedy.' Slip Op. at 13-14.

"The petition for certiorari is accordingly granted, and the judgment of the Court of Appeals is vacated and remanded for reconsideration in the light of *Village of Arlington Heights*, and *Dayton*, *supra*."

School District of Omaha, Slip Opinion at p. 2.

Thus, the system-wide remedy order in Omaha was vacated pending the determination of the "incremental segregative effect" of the specific constitutional violations found. The court of appeals' broad declarations that a system-wide remedy was required were not sufficient absent the more specific determinations required by *Dayton*.

Also on June 29, 1977, the Supreme Court applied the *Dayton* case to the Milwaukee school desegregation litigation. *Brennan v. Armstrong*, ___ U.S. ___ (Slip Opinion, June 29, 1977). As in *Omaha*, the Supreme Court vacated the judgment of the Court of Appeals for reconsideration in light of *Village of Arlington Heights* and *Dayton*.

In the Milwaukee case, the district court originally found intentionally caused segregation in the Milwaukee system. *Amos v. Board of Directors of City of Milwaukee*, 408 F. Supp. 765 (E.D. Wis. 1976):

"The Court concludes that the defendants have knowingly carried out a systematic program of segregation affecting all of the city's students, teachers, and school facilities, and have intentionally brought about and maintained a dual school system. The Court therefore holds that the entire Milwaukee public school system is unconstitutionally segregated."

Amos, *supra*, 408 F. Supp. at 821.

The Seventh Circuit affirmed the lower court's finding, *Armstrong v. Brennan*, 539 F.2d 625 (7th Cir. 1976), and the school board sought a writ of certiorari on December

14, 1976. 45 U.S.L.W. 3477. On March 17, 1977, the district court ordered implementation of a system-wide plan of desegregation. *Armstrong v. O'Connell*, 427 F. Supp. 1377 (E.D. Wis. 1977).

The June 29, 1977 decision of the Supreme Court, vacating the Seventh Circuit's decision, said:

"Neither the District Court in ordering development of a remedial plan, nor the Court of Appeals in affirming, addressed itself to the inquiry mandated by our opinion in No. 76-539, *Dayton Board of Education v. Brinkman*, in which we said:

'If such violations are found, the District Court in the first instance, subject to review by the Court of Appeals, must determine how much incremental segregative effect these violations had on the racial distribution of the Dayton school population as presently constituted, when that distribution is compared to what it would have been in the absence of such constitutional violations. The remedy must be designed to redress that difference, and only if there has been a system-wide impact may there be a system-wide remedy.' Slip op., at 13-14.

"The petition for certiorari is accordingly granted, and the judgment of the Court of Appeals is vacated and remanded for reconsideration in the light of the *Village of Arlington Heights v. Metropolitan Development Corp.*, — U.S. — (1977), and *Dayton*."

Brennan v. Armstrong, Slip Opinion at pp. 1-2.

Thus, notwithstanding the lower courts' general pronouncements that the violation or liability in the Milwaukee case was system-wide, the Supreme Court's remand required the lower courts to address and to make the specific determination of incremental segregative effect as defined in *Dayton*.

We respectfully submit that this Court is also required to address itself to the "inquiry mandated" by the Supreme Court's *Dayton* opinion. As in *Dayton*, *Omaha*, and *Bren-*

nan, this Court must "determine how much incremental segregative effect these violations had on the racial distribution of the [Columbus] school population as presently constituted, when that distribution is compared to what it would have been in the absence of such constitutional violations." *Dayton*, Slip Opinion at 13-14. As made clear in *Brennan*, the required inquiry should be made when the court first orders development of a remedial plan. Only in that manner will the Court and the litigants know what type of "remedy must be designed to redress that difference." *Dayton*, Slip Opinion at 14.

The Court's March 8, 1977 Opinion and Order, like the decisions in *Omaha* and *Brennan*, finds certain constitutional violations and holds that the liability is system-wide. 429 F. Supp. 266. In its Memorandum and Order of July 7, 1977, the Court said that it would not "order implementation of a plan which fails to take into account the systemwide nature of the liability of the defendants." In view of the recent decisions of the Supreme Court, however, the Court is required to do more: to determine the difference between the present racial distribution in the Columbus public schools as compared to what it would have been in the absence of such constitutional violations. It is only that difference, the incremental segregative effect, that must be remedied under constitutional principles.

Because of the mandatory considerations now required by *Dayton*, *Omaha* and *Brennan*, the findings of fact contained in the March 8, 1977 Opinion and Order are insufficient to permit the formulation of an appropriate remedy. It is respectfully submitted that a remedy cannot be fashioned in accordance with current constitutional requirements until the Court first defines the contemporary effects of the constitutional violations described in the March 8 Opinion and Order.

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ORDER

[Filed August 30, 1977]

[Caption Omitted in Printing]

This matter is before the Court upon the August 17, 1977, report concerning Phase I preparatory efforts which the Columbus defendants have submitted pursuant to the Court's July 29, 1977, order. The intervening defendants have filed objections to the report; plaintiffs have not.

The Court finds that the August 17, 1977, Phase I report should be approved as submitted, with the understanding that modifications of the Phase I plan may be in order for good cause shown once details of the remainder of the desegregation plan become known.

It is accordingly ORDERED that the August 17, 1977, Phase I report of the Columbus defendants is approved for implementation.

ROBERT M. DUNCAN, *Judge*
United States District Court

◆

**COLUMBUS BOARD OF EDUCATION'S
RESPONSE TO THE COURT'S
JULY 29, 1977 ORDER**

[Filed August 31, 1977, Amended September 26, 1977]

[Caption Omitted in Printing]

Pursuant to this Court's July 29, 1977 Order, the Columbus Board of Education hereby submits the following, all of which are attached hereto:

(i) a new pupil reassignment plan prepared according to the guidelines set by the Court in its Order and entitled The Columbus City School District Response to a July 29, 1977 Federal District Court Pupil Desegregation Order;

(ii) a transportation report entitled Analysis of Transportation Requirements and Alternatives for Systemwide Desegregation of Columbus Schools, prepared for the Board by Simpson & Curtin, Transportation Engineers, August, 1977;

[Omitted in Printing]

(iii) Resolution in Response to July 29, 1977 Court Order to Produce Pupil Reassignment Plan and to Report on Transportation, which was adopted by the Columbus Board of Education on August 30, 1977; and

[Omitted in Printing]

(iv) Resolution in Response to July 29, 1977 Court Order to Indicate Which Transportation Method the Board of Education Proposes to Use to Implement Student Reassignment Plan, which was adopted by the Columbus Board of Education on August 30, 1977.

[Omitted in Printing]

Pursuant to the first resolution referenced above, counsel, on behalf of the Board of Education, hereby notifies and informs the Court that nothing contained in any submission by the Columbus Board of Education is intended to disqualify the school system from eligibility for any federal or state funds, including Emergency School Aid Act Funds, and requests that the Court, in any future remedy orders issued in this case, not include any provisions therein that would disqualify the Columbus School system from eligibility for any such funds.

Pursuant to the second resolution referenced above, counsel, on behalf of the Board of Education, hereby notifies the Court that the Columbus Board of Education recommends against the purchase of second-hand or used school buses and transportation equipment because of safety, financial and administrative considerations, and further recommends against implementation of the pupil reassignment plan until such time as adequate new school buses can be obtained, thus assuring safe and reliable

school transportation for the students required to be transported.

In submitting new pupil reassignment plan and transportation report pursuant to the Court's July 29 Order, the Columbus Board of Education does not waive, and indeed specifically reserves, all of its rights to continue the prior initiated appeals of the Court's March 8, 1977 Opinion and Order and March 9, 1977 Judgment and the Court's July 29, 1977 Order and to take an appeal from any future orders of the Court if the Board should so elect at the appropriate time.

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The Columbus City School District

**Response To A July 29, 1977
Federal District Court Pupil
Desegregation Order**

August 30, 1977

A Table of Contents

	<u>Page</u>
I. The Desegregation Remedy Plan	1
A. The Pupil Assignment Component	1
1. Preface	1
2. Considerations for Pupil Assignment	1
3. Vacated Buildings	2
4. Pupil Assignment: Elementary Schools ..	3
5. Pupil Assignment: Junior High Schools	46
6. Pupil Assignment: Senior High Schools	74
7. Pupil Assignment: All Pupils	93
8. Career Center Programs	110
9. Alternative School Programs	110
10. Columbus Plan Pupil Participation	110

	<u>Page</u>
B. Exceptions to the General Pupil Assignment Policies	110
1. Kindergarten	110
2. Graduating Seniors	110
3. Special Education	111
4. Gifted and Talented	111
C. Pupil Transportation	111
1. 1976-77 School Year Transportation System	112
2. 1977-78 School Year Transportation System	113
3. Desegregation Transportation Planning Considerations	113
4. January, 1978 Modification of the September, 1977 Transportation System	115
5. Requiring the Needed Equipment for the January, 1978 Desegregation Component	117
6. The 1978-79 School Year Transportation System	118
7. September, 1978 Bus Fleet Considerations	118
8. Transportation Specifics in Terms of Pupil in Transit and Distances to be Traveled	121
II. Remedy Plan Budget Requirements	125
III. School District Budget Status	135

I. DESEGREGATION REMEDY PLAN

A. The Pupil Assignment Component

1. Preface

The pupil assignment plan described herein was developed to comply with the July 29, 1977 Order of the United States Federal District Court. The plan desegregates the entire Columbus City School District by eliminating the racial identifiability of schools. The definition of a racially identifiable school follows the criterion applied throughout the July 29th Court Order — that is, any school in which the black pupil population falls outside a range of $32\% \pm 15\%$.

2. Considerations for Pupil Assignment

In developing the pupil assignment component of the remedy plan, considerations which gave direction to planning included:

Approach (Goal, Techniques). Eliminate racially identifiable schools. Use techniques such as boundary changes, grade level reorganizations, pairings and pairings and clusterings, and the vacating of schools.

Approach (Equitability). Distribute the burdens of desegregating equitably among black and non-black pupils.

Process (Racially Non-Identifiable Schools). Involve racially non-identifiable schools when it contributes to the elimination of racially identifiable schools.

Process (Non-Contiguous Attendance Areas). Assign no more than one non-contiguous attendance area to a junior or senior high school attendance area.

Process (Building Blocks). Use elementary school attendance areas as the major building blocks in developing the pupil assignment component of the remedy plan.

Process (Building Location). Locate all buildings within the attendance areas they serve.

Definition (Racially Identifiable School). Consider schools racially unidentifiable if they are $\pm 15\%$ of the city-wide black average.

Enrollment Figures. Use the pupil population figures from the October 1, 1976 HEW Report adjusted to reflect residential school enrollment. Assume that pupil enrollments in terms of numbers and racial composition at the time of implementation will approximate the October 1, 1976 adjusted HEW Report.

Feeder Patterns. Maintain feeder patterns where possible from elementary to junior and junior to senior high school.

Grade Organization. Maintain an elementary (1-6), junior high (7-9), and senior high (10-12) organization where possible. Establish primary centers (1-3, 1-4) and intermediate centers (4-6, 5-6) when necessary.

Grade Organization (Combination Schools). Eliminate combination schools: elementary-junior high schools, junior-senior high schools.

Grade Organization (Primary Level). Include at least three (3) primary grades in a primary center. Avoid one and/or two grade primary centers.

Grade Organization (Schools Attended). Have a pupil assigned to as few schools as possible in grades 1-12. Avoid more than two schools for the elementary years (Grades 1-6).

Transportation (Minimal). Reassign pupils in ways that result in minimal distance traveled and time required for transportation.

Transportation. Provide transportation when —

- Pupil resides more than 2 miles from assigned school and desires transportation.
- Severe safety hazards exist.

Reimburse pupils when transportation cannot be realistically provided yet the pupil is eligible.

Finance. General fund monies are at a critical low. Make prudent use of all funds including those related to desegregation.

Finance (Efficient Operation). Operate school at capacity or slightly above it to encourage the vacating of unneeded schools (low capacity and small enrollments) and the efficient use of staff in the remaining schools.

3. Vacated Buildings

In the development of the pupil assignment plan, several buildings were vacated. Factors considered in vacating these buildings included:

Building Capacity — when a building has a capacity of less than 400 pupils.

Declining Enrollment — when a school drops substantially below rated capacity.

Building Age/Nature — When a building reaches the point that the costs of maintenance/remodeling are excessively high and/or the internal organization of the rooms does not accommodate the instructional program.

Maintenance Costs — when a building cannot be operated economically, due to heating plant or maintenance costs.

Environmental Changes — when a building location becomes inaccessible, undesirable, hazardous, etc., due to urban deterioration, urban development/renewal, alterations of traffic patterns, etc.

Alternate Use — when a building location or physical design provide good prospects for an alternative school, sale or conversion to another use.

Organizational Considerations — when a building includes more than one organizational unit (elementary-junior or junior-senior) and can be reduced to one organizational unit.

Desegregation Potential — when the vacating of a building and subsequent consolidation/redistricting/clustering can improve racial balance.

Table 1 contains a listing of vacated buildings and their intended disposition under the auspices of the Remedy Plan.

4. Pupil Assignment: Elementary School Groupings

The pages following Table 1 contain charts reflecting Desegregation Remedy Plan statistics for each elementary school or school cluster.

Each chart contains the names of the schools involved in the cluster and the designated grade level organization of the building. Vacated schools are identified. The projected enrollment of the school is then listed in terms of the number of black pupils, the number of non-black pupils, the percent of the total enrollment that is black, kindergarten enrollment and total enrollment. The school enrollment capacity follows these projections.

The next section of each chart portrays projected pupil transportation in terms of the number of pupils to be transported. The transportation projections are presented for black and non-black pupils, and in terms of the total number of pupils transported.

The last chart in this sequence presents the overall totals for the elementary school aspect of the Desegregation Remedy Plan.

TABLE I
VACATED BUILDINGS AND BUILDING
DISPOSITION

School	Racial Identity: % Black, Oct. 1976			Disposition
	(47.1-100%) Black	(17.0-47.0%) Unidentifiable	(0.0-16.9%) Non-Black	
Elementary				
ALUM CREST	X			Junior High Occupancy Alternative L.E.M.
BARNETT		X		
BELLOWS			X	
COURTRIGHT		X		
CRESTVIEW			X	Alternative: Informal
DOUGLAS	X			
EAKIN		X		
GETTYSBURG			X	
GLENMONT			X	Alternative: I.G.E.
HEIMANDALE		X		
HOMEDALE			X	
INDIANOLA			X	
JAMES ROAD			X	Alternative: Traditional
LEXINGTON	X			
LINDEN PARK		X		
MARBURN			X	
MILO	X			Alternative: Traditional
NORTHRIDGE			X	
OAKLAND PARK			X	
PARSONS			X	
SHEPARD	X			Alternative: Traditional
STEWART			X	
VALLEYVIEW			X	
WALFORD			X	
WAYNE			X	
WILLIS PARK			X	
Elementary Total	5	5	16	

TABLE I
VACATED BUILDINGS AND BUILDING
DISPOSITION (Continued)

School	Racial Identity: % Black, Oct. 1976			Disposition
	(47.1-100%) Black	(17.0-47.0%) Unidentifiable	(0.0-16.9%) Non-Black	
<u>Junior High</u>				
BEEHCROFT			X	Senior High Occupancy Alternative: Success Impact
FRANKLIN	X			
INDEPENDENCE			X	Senior High Occupancy Elementary Occupancy
McGUFFEY		X		
ROOSEVELT	X			Junior High Occupancy
Junior High Total	<u>2</u>	<u>1</u>	<u>2</u>	
<u>Senior High</u>				
NORTH			X	
MOHAWK	X			
Senior High Total	<u>1</u>	<u>0</u>	<u>1</u>	
All School Total	<u>8</u>	<u>6</u>	<u>19</u>	

CHART 9

PUPIL ASSIGNMENT: ELEMENTARY ATTENDANCE PATTERNS

School	Organization	Projected Pupil Enrollment			School Capacity	Projected Pupil Transportation		
		Black	Non-Black	% Black		Black	Non-Black	Total
Main	K, 1-3	171	285	37.5	456	148	14	162
Slady Lane	K, 4-6	171	285	37.5	456	4	147	151
Willis Park	(Vacate)					18	124	142
Total		342	570	37.5	912	170	285	455

78

CHART 10

PUPIL ASSIGNMENT: ELEMENTARY ATTENDANCE PATTERNS

School	Organization	Projected Pupil Enrollment			School Capacity	Projected Pupil Transportation		
		Black	Non-Black	% Black		Black	Non-Black	Total
Courtright (10%)	K, 1-4	112	320	25.9	432	18	33	51
Easthaven	K, 5-6	126	385	26.0	484	16	159	175
Kent (75%)	K, 1-4	140	396	26.1	536	17	13	194
Leawood						1	217	234
Pinecrest (20%)						233	444	677
Total		378	1074	26.0	1452	242	1694	

CHART 11

PUPIL ASSIGNMENT: ELEMENTARY ATTENDANCE PATTERNS

School	Organization	Projected Pupil Enrollment			School Capacity	Projected Pupil Transportation		
		Black	Non-Black	% Black		Black	Non-Black	Total
Barnett (57%)	(Vacate)	148	310	32.3	458	8	27	35
Fair	K, 5-6	172	384	30.9	556	247	24	271
Fairmoor	K, 1-4					11	117	128
James	(Vacate)					2	67	69
Pinecrest (80%)	K, 1-4	124	236	34.4	360	4	87	91
Total		444	930	32.3	1374	272	322	594

79

CHART 12

PUPIL ASSIGNMENT: ELEMENTARY ATTENDANCE PATTERNS

School	Organization	Projected Pupil Enrollment			School Capacity	Projected Pupil Transportation		
		Black	Non-Black	% Black		Black	Non-Black	Total
Broadleigh	K, 1-6	138	228	37.7	366	61	427	630

CHART 13

PUPIL ASSIGNMENT: ELEMENTARY ATTENDANCE PATTERNS

School	Projected Pupil Enrollment				Projected Pupil Transportation			
	Black	Non-Black	% Black	Sub Total	Kdgn.	Total	School Capacity	Total
Alpine	156	376	29.3	532	92	624	630	183
Northgate	160	404	28.4	564	99	663	600	304
South Mifflin	158	390	28.8	548	83	631	690	334
Total	474	1170	28.8	1644	274	1,918		821

80

CHART 14

PUPIL ASSIGNMENT: ELEMENTARY ATTENDANCE PATTERNS

School	Projected Pupil Enrollment				Projected Pupil Transportation			
	Black	Non-Black	% Black	Sub Total	Kdgn.	Total	School Capacity	Total
Cassady	198	330	37.5	528	107	635	630	525
Devonshire	236	388	37.8	624	92	716	690	186
Forest Park	160	272	37.2	432	65	497	660	130
Total	594	990	37.5	1584	264	1848		841

CHART 15

PUPIL ASSIGNMENT: ELEMENTARY ATTENDANCE PATTERNS

School	Projected Pupil Enrollment				Projected Pupil Transportation			
	Black	Non-Black	% Black	Sub Total	Kdgn.	Total	School Capacity	Total
Arlington Park	144	316	31.3	460	74	534	540	294
Avalon	168	360	31.8	528	91	619	600	289
Walden	120	272	30.6	392	65	457	450	131
Total	432	948	31.3	1,380	230	1610		714

81

CHART 16

PUPIL ASSIGNMENT: ELEMENTARY ATTENDANCE PATTERNS

School	Projected Pupil Enrollment				Projected Pupil Transportation			
	Black	Non-Black	% Black	Sub Total	Kdgn.	Total	School Capacity	Total
East Columbus	146	388	27.3	534	96	630	630	276
Northtowne	92	232	28.4	324	52	376	420	103
Parkmoor	116	300	27.8	416	66	482	480	131
Shepard	84	244	25.6	328	53	381	330	192
Valley Forge	438	1164	27.3	1602	267	1869	630	106
Total								808

PUPIL ASSIGNMENT: ELEMENTARY ATTENDANCE PATTERNS

School	Organization	Projected Pupil Enrollment				Projected Pupil Transportation				
		Black	Non-Black	% Black	Sub Total	Kdgn.	School Capacity	Black	Non-Black	Total
Beatty Park (50%)								72	2	74
Maize	K, 4-6	186	324	36.5	510	107	617	0	153	153
Northridge	(Vacate)							4	167	171
Pilgrim	K, 1-3	186	324	36.5	510	63	573	136	6	142
Total		372	648	36.5	1,020	170	1,190	212	328	540

82

PUPIL ASSIGNMENT: ELEMENTARY ATTENDANCE PATTERNS

School	Organization	Projected Pupil Enrollment				Projected Pupil Transportation					
		Non-Black		% Black	Sub Total	Kdgn.	Total	School Capacity	Non-Black		
		Black	Black		Black				Black	Total	
Beaumont	K, 1-4	108	244	30.7	352	69	421	450	13	83	96
Eastgate	K, 5-6	120	264	31.3	384	48	432	450	193	2	195
North Linden	K, 1-4	132	284	31.7	416	73	491	510	7	104	111
Walford	(Vacate)								4	76	80
	Total	360	792	31.3	1152	192	1344		217	265	482

PUPIL ASSIGNMENT: ELEMENTARY ATTENDANCE PATTERNS

School	Organization	Projected Pupil Enrollment				Projected Pupil Transportation					
		Black	Non-Black	% Black	Sub Total	Kdgn.	Total	School Capacity	Black	Non-Black	Total
Huy Oakland Park	K, 4-6	150	360	29.4	510	88	598	720	6	258	264
	(Vacate - Alternative)					34	34	480	2	99	101
Trevitt	K, 1-3	150	360	29.4	510	48	558	570	142	2	144
	Total	300	720	29.4	1020	170	1190		150	359	509

83

PUPIL ASSIGNMENT: ELEMENTARY ATTENDANCE PATTERNS

Innis	School	Organization	Projected Pupil Enrollment					Projected Pupil Transportation				
			Non-Black		% Black	Sub Total	Kdgn. Total	School Capacity	Non-Black			
			Black	Black		Black			Black	Black	Total	
		K, 1-6	144	348	29.4	492	82	574	600	126	305	431

CHART 21
PUPIL ASSIGNMENT: ELEMENTARY ATTENDANCE PATTERNS

School	Projected Pupil Enrollment				Projected Pupil Transportation		
	Black	Non-Black	% Black	Sub Total	Kdgn.	Total	School Capacity
East Linden	144	276	34.3	420	70	490	540

84

CHART 22
PUPIL ASSIGNMENT: ELEMENTARY ATTENDANCE PATTERNS

School	Projected Pupil Enrollment				Projected Pupil Transportation			
	Black	Non-Black	% Black	Sub Total	Kdgn.	Total	School Capacity	Non-Black
Duxberry Park	152	344	30.6	496	81	577	630	28
Gables	152	364	29.5	516	89	605	600	177
Gettysburg	152	324	31.9	476	78	554	300	289
Winterset							680	356
Total	456	1032	30.6	1488	248	1736		850

CHART 23
PUPIL ASSIGNMENT: ELEMENTARY ATTENDANCE PATTERNS

School	Projected Pupil Enrollment				Projected Pupil Transportation			
	Black	Non-Black	% Black	Sub Total	Kdgn.	Total	School Capacity	Non-Black
Gladstone	124	264	32.0	388	60	448	450	5
Homedale							330	59
Salem	124	268	31.6	392	68	460	660	1
Sharon	124	260	32.3	384	66	450	450	69
Total	372	792	32.0	1,164	194	1,358		281

85

CHART 24
PUPIL ASSIGNMENT: ELEMENTARY ATTENDANCE PATTERNS

School	Projected Pupil Enrollment				Projected Pupil Transportation			
	Black	Non-Black	% Black	Sub Total	Kdgn.	Total	School Capacity	Non-Black
Cranbrook	117	171	40.6	288	60	348	570	19
Kenwood	135	216	38.5	351	75	426	480	4
Marburn							420	9
Windsor	252	387	39.4	639	78	717	810	231
Total	504	774	39.4	1,278	213	1,491		560

823

CHART 25

PUPIL ASSIGNMENT: ELEMENTARY ATTENDANCE PATTERNS

School	Projected Pupil Enrollment				Projected Pupil Transportation		
	Black	Non-Black	% Black	Sub Total	Kdgn.	Total	School Capacity
Brentnell	153	345	30.7	498	53	551	540
Glenmont							540
Indian Springs	153	345	30.7	498	113	611	690
(Colerain)							
Total	306	690	30.7	996	116	1,162	154
							368
							522

86

CHART 26

PUPIL ASSIGNMENT: ELEMENTARY ATTENDANCE PATTERNS

School	Projected Pupil Enrollment				Projected Pupil Transportation		
	Black	Non-Black	% Black	Sub Total	Kdgn.	Total	School Capacity
Clinton	216	399	35.1	615	133	748	780
Crestview							360
Hamilton	216	399	35.1	615	72	687	720
Total	432	798	35.1	1,230	205	1,435	
							266
							129
							4
							399
							614

CHART 27

PUPIL ASSIGNMENT: ELEMENTARY ATTENDANCE PATTERNS

School	Projected Pupil Enrollment				Projected Pupil Transportation		
	Black	Non-Black	% Black	Sub Total	Kdgn.	Total	School Capacity
Calumet	64	156	29.1	220	36	256	360
Como	124	276	31.0	400	67	467	600
Hudson	94	216	30.3	310	52	362	420
Total	282	648	30.3	930	155	1,085	
							176
							202
							378

87

CHART 28

PUPIL ASSIGNMENT: ELEMENTARY ATTENDANCE PATTERNS

School	Projected Pupil Enrollment				Projected Pupil Transportation		
	Black	Non-Black	% Black	Sub Total	Kdgn.	Total	School Capacity
Linden Park							
(Vacate - Alternative)					53	53	690
McGuffey	240	498	32.5	738	70	808	1,380
Total	240	498	32.5	738	123	861	

CHART 33

PUPIL ASSIGNMENT: ELEMENTARY ATTENDANCE PATTERNS

School	Organization	Projected Pupil Enrollment					Projected Pupil Transportation				
		Black	Non-Black	% Black	Sub Total	Kdgn. Total	School Capacity	Black	Non-Black	Total	
Eakin	(Vacate)						570	31	138	169	
Georgian Heights	K, 4-6	195	420	31.7	615	118	733	690	1	185	186
Highland	K, 1-3	195	420	31.7	615	87	702	720	164	98	262
Total		390	840	31.7	1,230	205	1,435		196	421	617

90

CHART 34

PUPIL ASSIGNMENT: ELEMENTARY ATTENDANCE PATTERNS

School	Organization	Projected Pupil Enrollment					Projected Pupil Transportation				
		Black	Non-Black	% Black	Sub Total	Kdgn.	Total	School Capacity	Black	Non-Black	Total
Bellows (90%)	(Vacate)							390	28	231	259
Sullivant	K, 1-3	141	312	31.1	453	88	541	570	121	33	154
Westgate	K, 4-6	141	312	31.1	453	63	516	600	9	181	190
	Total	282	624	31.1	906	151	1,057		158	445	603

CHART 35

PUPIL ASSIGNMENT: ELEMENTARY ATTENDANCE PATTERNS

Projected Pupil Enrollment										Projected Pupil Transportation		
School	Organization	Black	Non-Black	% Black	Sub Total	Kdgn.	Total	School Capacity	Black	Non-Black	Total	
Beatty Park (50%)	K, 1-3	75	201	27.2	276	25	301	540	72	2	74	
Garfield	K, 1-3	111	294	27.4	405	35	440	510	106	0	106	
Valleyview	(Vacate)							330	6	289	295	
West Broad	K, 4-6	186	495	27.3	681	167	848	900	5	369	374	
	Total	372	990	27.3	1,362	227	1,589		189	660	849	

91

CHART 36

PUPIL ASSIGNMENT: ELEMENTARY ATTENDANCE PATTERNS

School	Organization	Projected Pupil Enrollment					Projected Pupil Transportation				
		Black	Non-Black	% Black	Sub Total	Kdgn.	Total	School Capacity	Black	Non-Black	Total
Bims	K, 1-4	132	280	32.0	412	65	477	720	3	128	131
Burroughs Douglas	K, 1-4	204	380	34.9	584	96	680	780	17	177	194
	(Vacate - Alternative)					53	53	510	185	28	213
Lindbergh	K, 1-4	148	324	31.4	472	80	552	510	2	86	88
Ohio	K, 5-6	242	492	33.0	734	73	807	780	243	47	290
Wayne	(Vacate)							270	9	65	74
	Total	726	1,476	33.0	2,202	367	2,569		456	531	990

CHART 37

PUPIL ASSIGNMENT: ELEMENTARY ATTENDANCE PATTERNS

School	Organization	Projected Pupil Enrollment				Projected Pupil Transportation		
		Black	Non-Black	% Black	Sub Total	Kdgn.	Total	School Capacity
Avondale	K, 1-4	108	300	26.5	408	67	475	510
Dana	K, 1-4	120	324	27.0	444	71	515	630
Kent (25%)								
Livingston (75%)	K, 5-6	164	452	26.6	616	89	705	840
West Mound	K, 1-4	100	280	26.2	380	81	461	660
Total		492	1,356	27.0	1,848	308	2,156	
								293
								502
								795

92

CHART 38

PUPIL ASSIGNMENT: ELEMENTARY ATTENDANCE PATTERNS

School	Organization	Projected Pupil Enrollment				Projected Pupil Transportation		
		Black	Non-Black	% Black	Sub Total	Kdgn.	Total	School Capacity
Chicago	K, 1-6	72	258	21.8	330	55	385	510
Total		72	258	21.8	330	55	385	

CHART 39

PUPIL ASSIGNMENT: ELEMENTARY ATTENDANCE PATTERNS

School	Organization	Projected Pupil Enrollment				Projected Pupil Transportation		
		Black	Non-Black	% Black	Sub Total	Kdgn.	Total	School Capacity
Bellevue (10%)	K, 1-6	60	192	23.8	252	42	294	420
Franklin		60	192	23.8	252	42	294	
Total		120	384	23.8	504	84	588	

93

CHART 40

PUPIL ASSIGNMENT: ELEMENTARY ATTENDANCE PATTERNS

School	Organization	Projected Pupil Enrollment				Projected Pupil Transportation		
		Black	Non-Black	% Black	Sub Total	Kdgn.	Total	School Capacity
Beck	K, 1-6	138	384	26.4	522	68	590	660
Livingston (25%)								
Stewart	(Vacate - Alternative)					19	19	390
Total		138	384	26.4	522	87	609	

CHART 41
PUPIL ASSIGNMENT: ELEMENTARY ATTENDANCE PATTERNS

School	Projected Pupil Enrollment				Projected Pupil Transportation		
	Black	Non-Black	% Black	Sub Total	Black	Non-Black	Total
TOTAL ELEMENTARY	14,106	30,726	31.5	44,832	7,496	13,113	20,609

5. Pupil Assignment: Junior High School

The following pages contain charts reflecting the Desegregation Remedy Plan statistics for junior high schools.

Each chart contains the name of the junior high school and the names of the elementary schools which will comprise the junior high feeder area. This latter grouping of schools also includes the percent of the elementary school population involved in the designated junior high school feeder area when that percentage is less than 100 percent.

Following this identifying information the projected enrollments of the feeder schools and the designated junior high are presented. These projections are portrayed in terms of the number of black pupils, the number of non-black pupils, percent of the total enrollment that is black, and the total enrollment. The enrollment capacity of the designated junior high is then presented.

The next section of each chart portrays projected pupil transportation data for each elementary school involved in the designated junior high school feeder pattern. The total for the designated junior high feeder area is also presented. These pupil transportation projections are presented in terms of pupils to be transported. Projections are further detailed in each general case for black and non-black pupils, and in terms of the total number of pupils transported.

The last chart in this sequence presents the overall totals associated for the junior high school aspect of the Desegregation Remedy Plan.

CHART 42

PUPIL ASSIGNMENT: JUNIOR HIGH SCHOOL ATTENDANCE PATTERNS

School	Elementary School Feeder Areas	Projected Pupil Enrollment			Projected Pupil Transportation		
		Black	Non-Black	% Black	School Capacity	Black	Non-Black
BARRETT		375	691	35.2	1,066		
	Heyl	41	214	16.1	255		
	Kent	181	13	93.3	194		
	Livingston (75%)	149	68	68.7	217		
	Siebert	1	153	0.6	154		
	Southwood	3	243	1.2	246		

96

CHART 43

PUPIL ASSIGNMENT: JUNIOR HIGH SCHOOL ATTENDANCE PATTERNS

School	Elementary School Feeder Areas	Projected Pupil Enrollment			Projected Pupil Transportation		
		Black	Non-Black	% Black	School Capacity	Black	Non-Black
BEERY		248	576	30.1	824	159	559
	Fornof	4	75	5.1	79	4	75
	Heimandale	31	70	30.7	101	31	70
	Lincoln Park	103	117	46.8	220	103	117
	Reeb	21	166	11.2	187	21	166
	Scioto Trail	0	131	0.0	131	0	131
	Watkins	89	17	84.0	106		

CHART 44

PUPIL ASSIGNMENT: JUNIOR HIGH SCHOOL ATTENDANCE PATTERNS

School	Elementary School Feeder Areas	Projected Pupil Enrollment			Projected Pupil Transportation		
		Black	Non-Black	% Black	School Capacity	Black	Non-Black
BUCKEYE		305	574	34.7	879	281	60
	Cedarwood	6	227	2.6	233		
	Clarfield	149	17	89.8	166	149	17
	Koebel	132	43	75.4	175	132	43
	Moler (11%)	9	11	45.0	20		
	Parsons	9	122	6.9	131		
	Stockbridge	0	154	0.0	154		

97

CHART 45

PUPIL ASSIGNMENT: JUNIOR HIGH SCHOOL ATTENDANCE PATTERNS

School	Elementary School Feeder Areas	Projected Pupil Enrollment			Projected Pupil Transportation		
		Black	Non-Black	% Black	School Capacity	Black	Non-Black
CHAMPION		258	443	36.8	701	98	437
	Beatty Park (50%)	72	2	97.3	74		
	Beaumont	19	121	13.6	140	19	121
	Innis	71	171	29.3	242	71	171
	Northtowne	8	145	5.2	153	8	145
	Pilgrim (80%)	88	4	95.7	92		

CHART 46

PUPIL ASSIGNMENT: JUNIOR HIGH SCHOOL ATTENDANCE PATTERNS

School	Elementary School Feeder Areas	Projected Pupil Enrollment			Projected Pupil Transportation		
		Black	Non-Black	% Black	School Capacity	Black	Non-Black
					Total		Total
CLINTON		349	667	34.4	1,016	331	167
	Brentnell	150	9	94.3	159	150	9
	Gladstone	178	4	97.8	182	178	4
	Maize	0	150	0.0	150		
	North Linden	10	154	6.1	164		
	Northridge (51%)	2	84	2.3	86		
	Valley Forge	3	154	1.9	157	3	154
	Walford	6	112	5.1	118		

98

CHART 47

PUPIL ASSIGNMENT: JUNIOR HIGH SCHOOL ATTENDANCE PATTERNS

School	Elementary School Feeder Areas	Projected Pupil Enrollment			Projected Pupil Transportation		
		Black	Non-Black	% Black	School Capacity	Black	Non-Black
					Total		Total
CRESTVIEW		281	739	27.5	1,020	278	350
	Clinton	2	262	0.8	264		
	Crestview	1	127	0.8	128		
	Hudson	125	31	80.1	156	125	31
	Linden	101	212	32.3	313	101	212
	Linden Park	52	101	32.7	159	52	107

CHART 48

PUPIL ASSIGNMENT: JUNIOR HIGH SCHOOL ATTENDANCE PATTERNS

School	Elementary School Feeder Areas	Projected Pupil Enrollment			Projected Pupil Transportation		
		Black	Non-Black	% Black	School Capacity	Black	Non-Black
					Total		Total
DOMINION		229	651	26.0	880	226	320
	Duxberry Park	222	21	91.4	243	222	21
	Glenmont	2	147	1.3	149		
	Indian Springs (Colerain)	1	184	0.5	185		
	Salem	2	197	1.0	199	2	197
	Sharon	2	102	1.9	104	2	102

99

CHART 49

PUPIL ASSIGNMENT: JUNIOR HIGH SCHOOL ATTENDANCE PATTERNS

School	Elementary School Feeder Areas	Projected Pupil Enrollment			Projected Pupil Transportation		
		Black	Non-Black	% Black	School Capacity	Black	Non-Black
					Total		Total
EASTMOOR		294	466	38.7	760	198	89
	Barnett (57%)	9	42	17.6	51		
	Broadleigh	70	112	38.5	182		
	East Columbus	121	84	59.0	205	121	84
	Fairmoor	16	173	8.5	189		
	James Road (50%)	1	50	2.0	51	77	5

82

CHART 50

PUPIL ASSIGNMENT: JUNIOR HIGH SCHOOL ATTENDANCE PATTERNS

School EVERETT	Elementary School Feeder Areas	Projected Pupil Enrollment			School Capacity	Projected Pupil Transportation		
		Black	Non- Black	% Black		Black	Non- Black	Total
	Fifth	281	654	30.1	900	154	64	218
	Hubbard	14	207	6.3				
	Kingswood (52%)	1	119	0.8				
	Lexington	8	57	12.3				
	Milo	93	2	97.9		8	57	65
	Second	106	10	91.4		93	2	95
	Thurber	31	138	18.3		53	5	58
		28	121	18.8				

100

CHART 51

PUPIL ASSIGNMENT: JUNIOR HIGH SCHOOL ATTENDANCE PATTERNS

School HILLTONIA	Elementary School Feeder Areas	Projected Pupil Enrollment			School Capacity	Projected Pupil Transportation		
		Black	Non- Black	% Black		Black	Non- Black	Total
	Binns (20%)	302	581	34.2	1,000	239	127	366
	Deshler	1	37	2.6				
	Lindbergh	239	127	65.3				
	Wayne	3	127	2.3		239	127	366
	West Mound	13	95	12.0				
		46	195	19.1				

CHART 52

PUPIL ASSIGNMENT: JUNIOR HIGH SCHOOL ATTENDANCE PATTERNS

School INDIANOLA	Elementary School Feeder Areas	Projected Pupil Enrollment			School Capacity	Projected Pupil Transportation		
		Black	Non- Black	% Black		Black	Non- Black	Total
	Eleventh	263	498	34.6	800	8	52	60
	Indianola	145	14	91.2				
	Kingswood (48%)	13	95	12.0				
	Medary	8	52	13.3		8	52	60
	Weinland Park	8	211	3.7				
		89	126	41.4				

101

CHART 53

PUPIL ASSIGNMENT: JUNIOR HIGH SCHOOL ATTENDANCE PATTERNS

School JOHNSON PARK	Elementary School Feeder Areas	Projected Pupil Enrollment			School Capacity	Projected Pupil Transportation		
		Black	Non- Black	% Black		Black	Non- Black	Total
	Barnett (43%)	391	628	38.4	1,000	151	33	184
	Berwick	6	32	15.8		6	32	38
	Courtright (90%)	60	57	51.3				
	Eastgate	71	124	36.4				
	James Road (50%)	145	1	99.3		145	1	146
	Leawood (45%)	2	50	3.8				
	Pinecrest	9	109	7.6				
	Scottwood	8	160	4.8				
		90	95	48.6				

PUPIL ASSIGNMENT: JUNIOR HIGH SCHOOL ATTENDANCE PATTERNS

School	Elementary School Feeder Areas	Projected Pupil Enrollment			Projected Pupil Transportation			
		Black	Non-Black	% Black	School Capacity	Black	Non-Black	Total
LINMOOR		297	510	36.8	807	11	276	287
	Calumet	3	104	2.8	107	3	104	107
	Como	12	183	6.1	197	6	92	98
	Hamilton	211	4	98.1	215			
	McGuffey	69	137	33.5	206			
	Northridge (49%)	2	80	2.4	82	2	80	82

CHART 55

PUPIL ASSIGNMENT: JUNIOR HIGH SCHOOL ATTENDANCE PATTERNS

School	Elementary School Feeder Areas	Projected Pupil Enrollment				Projected Pupil Transportation			
		Black	Non- Black	% Black	Total	School Capacity	Black	Non- Black	Total
MEDINA		263	524	33.4	787	900	255	173	428
	Arlington Park	183	37	83.2	220		183	37	220
	East Linden	72	136	34.6	208		72	136	208
	Huy	6	254	2.3	260				
	Oakland Park	2	97	2.0	99				

CHART 56

PUPIL ASSIGNMENT: JUNIOR HIGH SCHOOL ATTENDANCE PATTERNS

School	Elementary School Feeder Areas	Projected Pupil Enrollment			Projected Pupil Transportation			
		Black	Non- Black	% Black	School Capacity	Black	Non- Black	Total
		311	848	26.8	1,159	241	842	1,083
	Alpine	6	265	2.2	271	6	265	271
	Cassady	298	24	92.6	322	228	18	246
	Devonshire	1	273	0.4	274	1	273	274
	Northgate	6	286	2.1	292	6	286	292

CHART 57

PUPIL ASSIGNMENT: JUNIOR HIGH SCHOOL ATTENDANCE PATTERNS

School	Elementary School Feeder Areas	Projected Pupil Enrollment			School Capacity	Projected Pupil Transportation		Total
		Black	Non- Black	% Black		Black	Non- Black	
MOHAWK	Beck	462	763	37.7	1,225	34	440	474
	Burroughs	18	111	14.0	129			
	Franklinton	25	261	8.7	286			
	Livingston (25%)	30	85	26.1	115	25	261	286
	Main	50	22	69.4	72			
	Ohio	148	14	91.4	162			
	Stewart	182	35	83.9	217			
	Westgate	0	56	0.0	56	9	179	188
	9	179	4.8	188				

PUPIL ASSIGNMENT: JUNIOR HIGH SCHOOL ATTENDANCE PATTERNS

School	Elementary School Feeder Areas	Projected Pupil Enrollment			School Capacity	Projected Pupil Transportation		
		Black	Non-Black	% Black		Black	Non-Black	Total
MONROE		170	491	25.7	661	6	488	494
	Gables	2	139	1.4	141		139	141
	Gettysburg	0	122	0.0	122	0	122	122
	Pilgrim (20%)	22	1	95.7	23			
	Trevitt	142	2	98.6	144			
	Winterset	4	227	1.7	231	4	227	231

CHART 59

PUPIL ASSIGNMENT: JUNIOR HIGH SCHOOL ATTENDANCE PATTERNS

School	Elementary School Feeder Areas	Projected Pupil Enrollment			School Capacity	Projected Pupil Transportation		
		Black	Non-Black	% Black		Black	Non-Black	Total
RIDGEVIEW		254	469	35.1	900	244	256	500
	Cranbrook	11	166	6.2		11	166	177
	Homedale	3	87	3.3		3	87	90
	Kenwood	4	109	3.5				
	Marburn	6	104	5.5				
	Windsor	230	3	98.7		230	3	233

CHART 60

PUPIL ASSIGNMENT: JUNIOR HIGH SCHOOL ATTENDANCE PATTERNS

School	Elementary School Feeder Areas	Projected Pupil Enrollment			School Capacity	Projected Pupil Transportation		
		Black	Non- Black	% Black		Black	Non- Black	Total
		232	591	28.2	823	201	216	417
	Fair	185	18	91.1	203	185	18	203
	Leewood (45%)	9	108	7.7	117			
	Shady Lane	4	145	2.7	149			
	Willis Park	18	122	12.9	140			
	Woodcrest	16	198	7.5	214	16	198	214

CHART 61

PUPIL ASSIGNMENT: JUNIOR HIGH SCHOOL ATTENDANCE PATTERNS

School	Elementary School Feeder Areas	Projected Pupil Enrollment			School Capacity	Projected Pupil Transportation		
		Black	Non-Black	% Black		Black	Non-Black	Total
		280	623	31.0	800	98	495	593
	Alum Crest	58	18	76.3		58	18	76
	Courtright (10%)	8	14	36.4		8	14	22
	Easthaven	24	235	9.3		24	235	259
	Maybury	3	170	1.7		3	170	173
	Moler (89%)	110	51	88.3				
	Oakmont (20%)	3	34	8.1		3	34	37
	Smith Road	72	77	48.3				
	Leawood (10%)	2	24	7.7		2	24	26

PUPIL ASSIGNMENT: JUNIOR HIGH SCHOOL ATTENDANCE PATTERNS

School	Elementary School Feeder Areas	Projected Pupil Enrollment			School Capacity	Projected Pupil Transportation	
		Black	Non- Black	% Black		Black	Non- Black
		173	673	20.4	900		
	Avondale	2	196	1.0			
	Bellows	13	109	10.7			
	Chicago	35	127	21.6			
	Dana	2	208	1.0			
	Sullivant	121	33	78.6			
							154

CHART 63

PUPIL ASSIGNMENT: JUNIOR HIGH SCHOOL ATTENDANCE PATTERNS

School	Elementary School Feeder Areas	Projected Pupil Enrollment			Projected Pupil Transportation			
		Black	Non- Black	% Black	School Capacity	Black	Non- Black	Total
WEDGEWOOD		174	491	26.2	665	139	21	160
	Binns (80%)	3	152	1.9	155			
	Douglas	139	21	86.9	160	139	21	160
	Eakin	31	136	18.6	167			
	Georgian Heights	1	182	0.5	183			

CHART 64

PUPIL ASSIGNMENT: JUNIOR HIGH SCHOOL ATTENDANCE PATTERNS

School	Elementary School Feeder Areas	Projected Pupil Enrollment			Projected Pupil Transportation			
		Black	Non- Black	% Black	School Capacity	Black	Non- Black	
								Total
WESTMOOR		350	583	37.5	933	219	51	270
	Beatty Park (50%)	72	2	97.3	74	72	2	74
	Garfield	106	0	100.0	106	106	0	106
	Highland	164	96	63.1	260	41	24	65
	Valleyview	3	122	2.4	125	0	25	25
	West Broad	5	363	1.4	368			

CHART 65

PUPIL ASSIGNMENT: JUNIOR HIGH SCHOOL ATTENDANCE PATTERNS

School	Elementary School Feeder Areas		Projected Pupil Enrollment			Projected Pupil Transportation		
	Black	Non-Black	% Black	Total	School Capacity	Black	Non-Black	Total
	268	830	24.4	1,098	1,050	231	82	313
Avalon	24	246	8.9	270				
Forest Park	1	191	0.5	192		6	58	64
Parkmoor	9	185	4.6	194				
South Mifflin	225	24	90.4	249		225	24	249
Walden	9	184	4.7	193				

CHART 66

PUPIL ASSIGNMENT: JUNIOR HIGH SCHOOL ATTENDANCE PATTERNS

School	Elementary School Feeder Areas	Projected Pupil Enrollment			School Capacity	Projected Pupil Transportation		
		Black	Non-Black	% Black		Black	Non-Black	Total
YORKTOWN		240	577	29.4	850	228	441	669
	Fairwood	223	15	93.7		223	15	238
	Liberty	3	204	1.4		3	204	207
	Oakmont (80%)	12	136	8.1				
	Olde Orchard	2	222	0.9		2	222	224

108

CHART 67

PUPIL ASSIGNMENT: JUNIOR HIGH SCHOOL ATTENDANCE PATTERNS SUMMARY

School	Projected Pupil Enrollment			School Capacity	Projected Pupil Transportation		
	Black	Non-Black	% Black		Black	Non-Black	Total
TOTAL	7,050	15,141	31.8	22,191	4,030	6,039	10,069
BARRETT	375	691	35.2	1,066			
BEECHCROFT							
BEERY	248	576	30.1	824			
BUCKEYE	305	574	34.7	879	159	559	718
CHAMPION	258	443	36.8	701	281	60	341
CLINTON	349	667	34.4	1,016	98	437	535
CRESTVIEW	281	739	27.5	1,020	331	167	498
DOMINION	229	651	26.0	880	278	350	628
EASTMOOR	294	466	38.7	760	226	320	546
EVERETT	291	654	30.1	935	198	89	287
FRANKLIN					154	64	218
HILLTONIA	302	581	34.2	883	239	127	366
INDEPENDENCE	263	498	34.6	761	8	52	60
INDIANOLA	391	628	38.4	1,019	151	33	184
JOHNSON PARK							

109

CHART 67 (Continued)
PUPIL ASSIGNMENT: JUNIOR HIGH SCHOOL ATTENDANCE PATTERNS SUMMARY

School	Projected Pupil Enrollment			School Capacity	Projected Pupil Transportation		
	Black	Non-Black	% Black		Black	Non-Black	Total
LINMOOR	297	510	36.8	1,000	11	276	287
McGUFFEY	ELEMENTARY OCCUPANCY						
MEDINA	263	524	33.4	900	255	173	428
MIFFLIN	311	848	26.8	1,200	241	842	1,083
MOHAWK	462	763	37.7	1,250	34	440	474
MONROE	170	491	25.7	700	6	488	494
RIDGEVIEW	254	469	35.1	900	244	256	500
ROOSEVELT	VACATED						
SHERWOOD	232	591	28.2	900	201	216	417
SOUTHMOOR	280	623	31.0	800	98	495	593
STARLING	173	673	20.4	900			
WEDGEWOOD	174	491	26.2	750	139	21	160
WESTMOOR	350	583	37.5	1,000	219	51	270
WOODWARD PARK	268	830	24.4	1,050	231	82	313
YORKTOWN	240	577	29.4	850	228	441	669

6. Pupil Assignment: Senior High School

The following pages contain charts reflecting the Desegregation Remedy Plan statistics for the senior high schools.

Each chart contains the name of the senior high school and the names of the elementary schools which will comprise the senior high feeder area. This latter grouping of schools also includes the percent of the elementary school population involved in the designated senior high school feeder area when that percentage is less than 100 percent.

Following this identifying information the projected enrollments of the feeder schools and the designated senior high are presented. These projections are portrayed in terms of the number of black pupils, the number of non-black pupils, the percent of the enrollment that is black, and total enrollment. The enrollment capacity of the designated senior high is then presented.

The next section of each chart portrays projected pupil transportation data for each elementary school involved in the designated senior high school feeder pattern. The total for the designated senior high feeder area is also presented. These pupil transportation projections are presented in terms of pupils to be transported. Projections are further detailed in each general case for black and non-black pupils, and in terms of the total number of pupils transported.

The last chart in this sequence presents the overall totals for the senior high school aspect of the Desegregation Remedy Plan.

PUPIL ASSIGNMENT: SENIOR HIGH SCHOOL ATTENDANCE PATTERNS

School	Elementary School Feeder Areas	Projected Pupil Enrollment			School Capacity	Projected Pupil Transportation		
		Black	Non-Black	% Black		Black	Non-Black	Total
BEECHCROFT		423	867	32.8	1,290	404	56	460
	Alpine	6	241	2.4	247			
	Arlington Park	181	34	84.2	215	181	34	215
	Avalon (25%)	6	62	8.8	68			
	Devonshire	1	248	0.4	249			
	Northgate	6	260	2.3	266			
	South Mifflin	223	22	91.0	245	223	22	245

CHART 69

PUPIL ASSIGNMENT: SENIOR HIGH SCHOOL ATTENDANCE PATTERNS

School	Elementary School Feeder Areas	Projected Pupil Enrollment			Projected Pupil Transportation			
		Black	Non- Black	% Black	School Capacity	Black	Non- Black	Total
BRIGGS		209	487	30.0	696	180	31	211
	Binns	4	172	2.3	176			
	Burroughs (34%)	9	81	10.0	90			
	Lindbergh	3	116	2.5	119			
	Ohio	180	31	85.3	211	180	31	211
	Wayne	13	87	13.0	100			

CHART 70

PUPIL ASSIGNMENT: SENIOR HIGH SCHOOL ATTENDANCE PATTERNS

School	Elementary School Feeder Areas	Projected Pupil Enrollment			School Capacity	Projected Pupil Transportation		
		Black	Non-Black	% Black		Black	Non-Black	Total
		517	932	35.7	1,449	511	558	1,069
	Duxberry Park	220	19	92.1	239	220	19	239
	East Linden	71	124	36.4	195	71	124	195
	Linden	100	193	34.1	293	100	193	293
	Linden Park	51	97	34.5	148	51	97	148
	Maize	0	137	0.0	137			
	McGuffey	69	125	35.6	194	69	125	194
	Northridge	4	149	2.6	153			
	Oakland Park	2	88	2.2	90			

CHART 71

PUPIL ASSIGNMENT: SENIOR HIGH SCHOOL ATTENDANCE PATTERNS

School	Elementary School Feeder Areas	Projected Pupil Enrollment			School Capacity	Projected Pupil Transportation		
		Black	Non-Black	% Black		Black	Non-Black	Total
		278	556	33.3	834	272	222	494
	Gables	2	127	1.6	129	0	111	111
	Gettysburg	0	111	0.0	111	4	99	103
	Kenwood	4	99	3.9	103	105	9	114
	Milo	105	9	92.1	114	22	1	23
	Pilgrim (20%)	22	1	95.7	23	141	2	143
	Trevitt	141	2	98.6	143			
	Winterset	4	207	1.9	211			

CHART 72

PUPIL ASSIGNMENT: SENIOR HIGH SCHOOL ATTENDANCE PATTERNS

School CENTRAL	Elementary School Feeder Areas	Projected Pupil Enrollment			Projected Pupil Transportation			
		Black	Non- Black	% Black	School Capacity	Black	Non- Black	Total
	Avondale	508	1,051	32.6	1,559	289	262	551
	Beck	2	178	1.1	180			
	Bellows	18	101	15.1	119			
	Chicago	13	99	11.6	112			
	Dana	35	115	23.3	150			
	Franklinton	2	189	1.0	191			
	Livingston	29	77	27.4	106			
	Sullivan	198	82	70.7	280	198	82	280
	West Mound	120	30	80.0	150			
	Kent (25%)	46	177	20.6	223	46	177	223
		45	3	93.8	48	45	3	48

CHART 73

PUPIL ASSIGNMENT: SENIOR HIGH SCHOOL ATTENDANCE PATTERNS

School EAST	Elementary School Feeder Areas	Projected Pupil Enrollment			Projected Pupil Transportation			
		Black	Non- Black	% Black	School Capacity	Black	Non- Black	Total
		372	663	35.9	1,035	70	657	727
	Beatty Park (50%)	72	2	97.3	74			
	Cranbrook	11	151	6.8	162	11	151	162
	Eastgate	143	1	99.3	144			
	Fifth	14	188	6.9	202	14	188	202
	Hubbard	1	108	0.9	109	1	108	109
	Kingswood	16	99	13.9	115	16	99	115
	Pilgrim (80%)	87	3	96.7	90			
	Thurber	28	111	20.1	139	28	111	139

CHART 74

PUPIL ASSIGNMENT: SENIOR HIGH SCHOOL ATTENDANCE PATTERNS

[illegible]

CHART 75

PUPIL ASSIGNMENT: SENIOR HIGH SCHOOL ATTENDANCE PATTERNS

Elementary School Feeder Areas	Projected Pupil Enrollment			School Capacity	Projected Pupil Transportation		Total
	Black	Non- Black	% Black		Black	Non- Black	
Alum Crest	274	755	26.6	1,029	268	416	684
Courtright (10%)	56	17	76.7	73	56	17	73
Easthaven	8	12	40.0	20	8	12	20
Leawood (10%)	23	214	9.7	237	23	214	237
Liberty	2	22	8.3	24	2	22	24
Maybury	3	185	1.6	188			
Moler (89%)	3	154	1.9	157			
Oakmont (20%)	105	50	67.7	155	105	50	155
Smith Road	3	31	8.8	34	3	31	34
	71	70	50.4	141	71	70	141

CHART 76
PUPIL ASSIGNMENT: SENIOR HIGH SCHOOL ATTENDANCE PATTERNS

School	Elementary School Feeder Areas	Projected Pupil Enrollment			Projected Pupil Transportation				
		Black	Non-Black	% Black	Total	School Capacity	Black	Non-Black	Total
LINDEN MCKINLEY	Calumet	488	928	34.5	1,416	1,500	139	670	809
	Como	3	95	3.1	98		3	95	98
	Crestview	11	168	6.1	179		5	84	89
	Hamilton	1	115	0.9	116		1	115	116
	Hudson	209	3	98.6	212				
	Indianola	124	28	81.6	152				
	Medary	13	86	13.1	99		8	58	66
	Second	8	192	4.0	200		3	77	80
	Weinland Park	31	126	19.7	157		31	126	157
		88	115	43.3	203		88	115	203

CHART 77

PUPIL ASSIGNMENT: SENIOR HIGH SCHOOL ATTENDANCE PATTERNS

School	Elementary School Feeder Areas	Projected Pupil Enrollment			Projected Pupil Transportation		
		Black	Non-Black	% Black	School Capacity	Black	Non-Black
MARION FRANKLIN		429	784	35.4	1,213	62	714
	Cedarwood	6	207	2.8	213	6	207
	Clarfield	148	15	90.8	163		
	Fornof	4	68	5.6	72	4	68
	Heimandale	31	63	33.0	94	31	63
	Koebel	131	39	77.1	170		
	Moler (11%)	13	6	68.4	19	13	6
	Parsons	8	111	6.7	119	8	111
	Scioto Trail	0	119	0.0	119	0	119
	Stockbridge	0	140	0.0	140	0	140
	Watkins	88	16	84.6	104		

CHART 78

PUPIL ASSIGNMENT: SENIOR HIGH SCHOOL ATTENDANCE PATTERNS

School	Elementary School Feeder Areas	Projected Pupil Enrollment			Projected Pupil Transportation			
		Black	Non- Black	% Black	School Capacity	Black	Non- Black	Total
MIFFLIN								
	Beaumont	407	763	34.8	1,170	407	763	1,170
	Cassady	19	111	14.6	130	19	111	130
	Huy	295	22	93.1	317	295	22	317
	Innis	6	232	2.5	238	6	232	238
	North Linden	71	156	31.3	227	71	156	227
	Walford	10	140	6.7	150	10	140	150
		6	102	5.6	108	6	102	108

CHART 79

PUPIL ASSIGNMENT: SENIOR HIGH SCHOOL ATTENDANCE PATTERNS

School	Elementary School Feeder Areas	Projected Pupil Enrollment			Projected Pupil Transportation			
		Black	Non-Black	% Black	School Capacity	Black	Non-Black	Total
NORTHLAND								
	Avalon (75%)	448	959	31.8	1,407	401	16	417
	Brentnell	18	161	10.1	179			
	Forest Park	149	8	94.9	157	149	8	157
	Gladstone	1	174	0.6	175			
	Northtowne	176	3	98.3	179	176	3	179
	Parkmoor	8	132	5.7	140			
	Shepard	9	169	5.1	178			
	Valley Forge	76	5	93.8	81	76	5	81
	Walden	3	140	2.1	143			
		8	167	4.6	175			

CHART 80

PUPIL ASSIGNMENT: SENIOR HIGH SCHOOL ATTENDANCE PATTERNS

School	Elementary School Feeder Areas	Projected Pupil Enrollment			Projected Pupil Transportation		
		Black	Non-Black	% Black	School Capacity	Black	Non-Black
					Total		Total
SOUTH	Deshler	539	988	35.3	1,527		
	Heyl	237	116	67.1	353		
	Kent (75%)	41	195	17.4	236		
	Lincoln Park	134	9	93.7	143		
	Reeb	102	106	49.0	208		
	Siebert	21	151	12.2	172		
	Southwood	1	139	0.7	140		
	Stewart	3	221	1.3	224		
		0	51	0.0	51		

CHART 81

PUPIL ASSIGNMENT: SENIOR HIGH SCHOOL ATTENDANCE PATTERNS

School	Elementary School Feeder Areas	Projected Pupil Enrollment			Projected Pupil Transportation		
		Black	Non-Black	% Black	School Capacity	Black	Non-Black
					Total		Total
WALNUT RIDGE	Fair	621	989	38.6	1,610	565	369
	Fairwood	184	16	92.0	200	184	16
	Leawood (90%)	221	14	94.0	235	221	14
	Main	18	197	80.4	215		
	Oakmont	147	13	91.9	160	147	13
	Olde Orchard	11	124	8.1	135	11	124
	Shady Lane	2	202	1.0	204	2	202
	Willis Park	4	132	2.9	136		
	Woodcrest	18	111	14.0	129		
		16	180	8.2	196		

CHART 82

PUPIL ASSIGNMENT: SENIOR HIGH SCHOOL ATTENDANCE PATTERNS

School	Elementary School Feeder Areas	Projected Pupil Enrollment			Projected Pupil Transportation		
		Black	Non-Black	% Black	School Capacity	Black	Non-Black
					Total		Total
WEST	Beatty Park (50%)	539	1,160	31.7	1,699	545	336
	Burroughs (66%)	71	2	97.3	73	71	2
	Douglas	16	157	9.2	173		
	Eakin	137	19	87.8	156	137	19
	Garfield	31	124	20.0	155	31	124
	Georgian Heights	105	0	0.0	105	105	0
	Highland	1	166	0.6	167	1	166
	Valleyview	162	88	64.8	250		
	West Broad	3	111	2.6	114	0	25
	Westgate	5	331	1.5	336		
		8	162	4.7	170		

CHART 83

PUPIL ASSIGNMENT: SENIOR HIGH SCHOOL ATTENDANCE PATTERNS

School	Elementary School Feeder Areas	Projected Pupil Enrollment			Projected Pupil Transportation		
		Black	Non-Black	% Black	School Capacity	Black	Non-Black
					Total		Total
WHETSTONE	Clinton	482	1,004	32.4	1,486	472	534
	Eleventh	2	239	0.8	241	1	164
	Glenmont	144	13	91.7	157	144	13
	Homedale	2	134	1.5	136		
	Indian Springs/Colerain	3	79	3.7	82	3	79
	Lexington	1	167	0.6	168		
	Marburn	92	2	97.9	94	92	2
	Salem	6	94	6.0	100		
	Sharon	2	180	1.1	182	2	180
	Windor	2	93	2.1	95	2	93
		228	3	98.7	231	228	3

CHART 84 PUPIL ASSIGNMENT: SENIOR HIGH SCHOOL ATTENDANCE PATTERNS SUMMARY

120

School	Projected Pupil Enrollment			Projected Pupil Transportation			
	Black	Non-Black	% Black	School Capacity	Black	Non-Black	Total
TOTAL	6,984	13,779	33.5		4,731	6,078	10,809
BEECHCROFT	423	867	32.8	1,300	404	56	460
BRIGGS	209	487	30.0	800	180	31	211
BROOKHAVEN	517	932	35.7	1,350	511	558	1,069
CENTENNIAL	278	556	33.3	800	272	222	494
CENTRAL	508	1,051	32.6	1,400	289	262	551
EAST	372	663	35.9	1,100	70	657	727
EASTMOOR	450	893	33.5	1,400	346	474	820
INDEPENDENCE	274	755	26.6	1,300	268	416	684
LINDEN MCKINLEY	488	928	34.5	1,500	139	670	809
MARION FRANKLIN	429	784	35.4	1,500	62	714	776
MIFFLIN	407	763	34.8	1,200	407	763	1,170
MOHAWK							
NORTH							
NORTHLAND							
SOUTH							
WALNUT RIDGE							
WEST							
WHETSTONE							
JUNIOR HIGH OCCUPANCY							
VACATED							
	448	959	31.8	1,600	401	16	417
	539	988	35.3	1,600			
	621	989	38.6	1,600	565	369	934
	539	1,160	31.7	1,600	345	336	681
	482	1,004	32.4	1,400	472	534	1,006

121

7. Pupil Assignment: All Schools

The following pages contain charts reflecting the school attendance area projections for grades K-12. These projections are portrayed for each elementary school that was open or under construction during the 1976-77 school year.

The name of the elementary school is first presented followed by its Remedy Plan grade level organization. The elementary school designated for kindergarten attendance under the Desegregation Remedy Plan is then presented. This is followed by the elementary school designated for primary grade attendance and intermediate grade attendance. In these last two cases, if the attendance is less than K-6, the grade levels are designated.

The schools designated for elementary school attendance are followed by the schools designated for junior high and senior high attendance in the Desegregation Remedy Plan.

Throughout all charts, if a former elementary attendance area is to be divided among more than one school by the Desegregation Remedy Plan, it is so indicated.

CHART 85

PUPIL ASSIGNMENT: ALL SCHOOLS

(Grades K, 1-12)

Former Elementary School	New Elementary Organization	Pupil Assignment				
		Elementary Kindergarten	Elementary Primary	Elementary Intermediate	Junior High (Grades 7-9)	Senior High (Grades 10-12)
ALPINE	K/1-4	Alpine	1-4 Alpine	5-6 South Mifflin	Mifflin	Beechcroft
ALUM CREST	VACATED	Moler	#1-4 Oakmont	5-6 Moler	Southmoor	Independence
ARLINGTON PARK	K/5-6	Arlington Park	1-4 Woodcrest	5-6 Arlington Park	Medina	Beechcroft
AVALON	K/1-4	Avalon	#1-4 Avalon 1-4 Walden	5-6 Arlington Park	Woodward Park	#Beechcroft Northland Central Eastmoor
AVONDALE	K/1-4	Avondale	1-4 Avondale	5-6 Livingston	Starling	West East
BARNETT	VACATED	#Berwick Pinecrest	#1-4 Berwick 1-4 Pinecrest	#5-6 Olde Orchard 5-6 Fair	#Johnson Park Eastmoor	
BEATTY PARK	K/1-3	#Beatty Park Pilgrim	#1-3 Beatty Park 1-3 Pilgrim	#4-6 West Broad 4-6 Maize	#Westmoor Champion	

#Pupils will be assigned by geographic area to one of these schools.

122

CHART 85 (Continued)

PUPIL ASSIGNMENT: ALL SCHOOLS

(Grades K, 1-12)

Former Elementary School	New Elementary Organization	Pupil Assignment				
		Elementary Kindergarten	Elementary Primary	Elementary Intermediate	Junior High (Grades 7-9)	Senior High (Grades 10-12)
BEAUMONT	K/1-4	Beaumont	1-4 Beaumont	5-6 Eastgate	Champion	Mifflin
BECK	K/1-6	Beck	1-3 Beck	4-6 Beck	Mohawk	Central
BELLOWS	VACATED	#Sullivan Franklinton	#1-3 Sullivan 1-3 Franklinton	#4-6 Westgate 4-6 Franklinton	Starling	Central
BERWICK	K/1-4	Berwick	1-4 Berwick	5-6 Olde Orchard	Johnson Park	Eastmoor
BINNS	K/1-4	Binns	1-4 Binns	5-6 Ohio	#Hilltonia Wedgewood	Briggs
BRENTNELL	K/4-6	Brentnell	#1-3 Colerain 1-3 Indian Springs	4-6 Brentnell	Clinton	Northland
BROADLEIGH	K/1-6	Broadleigh	1-3 Broadleigh	4-6 Broadleigh	Eastmoor	Eastmoor
BURROUGHS	K/1-4	Burroughs	1-4 Burroughs	5-6 Ohio	Mohawk	#Briggs West

#Pupils will be assigned by geographic area to one of these schools.

123

CHART 85 (Continued) PUPIL ASSIGNMENT: ALL SCHOOLS (Grades K, 1-12)

Former Elementary School	New Elementary Organization	Pupil Assignment				
		Elementary Kindergarten	Elementary Primary	Elementary Intermediate	Junior High (Grades 7-9)	Senior High (Grades 10-12)
CALUMET	K/1-4	Calumet	1-4 Calumet	5-6 Hudson	Linmoor	Linden McKinley
CASSADY	K/5-6	Cassady	#1-4 Devonshire 1-4 Forest Park	5-6 Cassady	Mifflin	Mifflin
CEDARWOOD	K/4-6	Cedarwood	1-3 Watkins	4-6 Cedarwood	Buckeye	Marion Franklin
CHICAGO	K/1-6	Chicago	1-3 Chicago	4-6 Chicago	Starling	Central
CLARFIELD	K/1-3	Clarfield	1-3 Clarfield	#4-6 Scioto Trail 4-6 Stockbridge	Buckeye	Marion Franklin
CLINTON	K/4-6	Clinton	1-3 Hamilton	4-6 Clinton	Crestview	Whetstone
COLERAIN	K/1-3	Colerain	1-3 Colerain	4-6 Brentnell	Dominion	Whetstone
COMO	K/1-4	Como	1-4 Como	5-6 Hudson	Linmoor	Linden McKinley
COURTRIGHT	VACATED	#Scottwood Leawood	#1-4 Scottwood 1-4 Leawood	#5-6 Olde Orchard 6-6 Kent	#Johnson Park Southmoor	#Eastmoor Independence

#Pupils will be assigned by geographic area to one of these schools.

124

CHART 85 (Continued) PUPIL ASSIGNMENT: ALL SCHOOLS (Grades K, 1-12)

Former Elementary School	New Elementary Organization	Pupil Assignment				
		Elementary Kindergarten	Elementary Primary	Elementary Intermediate	Junior High (Grades 7-9)	Senior High (Grades 10-12)
CRANBROOK	K/4-6	Cranbrook	1-3 Windsor	4-6 Cranbrook	Kidgeview	East
CRESTVIEW	VACATED	Clinton	1-3 Hamilton	4-6 Clinton	Crestview	Linden McKinley
DANA	K/1-4	Dana	1-4 Dana	5-6 Livingston	Starling	Central
DESHLER	K/5-6	Deshler	#1-4 Heyl 1-4 Siebert	5-6 Deshler	Hilltonia	South
DEVONSHIRE	K/1-4	Devonshire	1-4 Devonshire	5-6 Cassady	Mifflin	Beechcroft
DOUGLAS	VACATED ALTERNATIVE	Douglas	1-4 Birns #1-4 Burroughs 1-4 Lindbergh	5-6 Ohio	Wedgewood	West
DUXBERRY PARK	K/5-6	Duxberry Park	#1-4 Gables 1-4 Winterset	5-6 Duxberry Park	Dominion	Brookhaven
EAKIN	VACATED	Georgian Heights	1-3 Highland	4-6 Georgian Heights	Wedgewood	West

#Pupils will be assigned by geographic area to one of these schools.

125

CHART 85 (Continued) PUPIL ASSIGNMENT: ALL SCHOOLS (Grades K, 1-12)

Former Elementary School	New Elementary Organization	Pupil Assignment				
		Elementary Kindergarten	Elementary Primary	Elementary Intermediate	Junior High (Grades 7-9)	Senior High (Grades 10-12)
EAST COLUMBUS	K/5-6	East Columbus	#1-4 Northtowne 1-4 Parkmoor 1-4 Valley Forge	5-6 East Columbus	Eastmoor	Eastmoor
EAST LINDEN	K/1-6	East Linden	1-3 East Linden	4-6 East Linden	Medina	Brookhaven
EASTGATE	K/5-6	Eastgate	#1-4 Beaumont	5-6 Eastgate	Johnson Park	East
EASTHAVEN	K/1-4	Easthaven	1-4 North Linden	5-6 Kent	Southmoor	Independence
ELEVENTH	K/1-4	#Eleventh Weinland	1-4 Eleventh 1-3 Weinland	#5-6 Medary 4-6 Fifth	Indianola	Whetstone
FAIR	K/5-6	Fair	#1-4 Fairmoor 1-4 Pinecrest	4-6 Kingswood 5-6 Fair	Sherwood	Walnut Ridge

#Pupils will be assigned by geographic area to one of these schools.

CHART 85 (Continued) PUPIL ASSIGNMENT: ALL SCHOOLS (Grades K, 1-12)

Former Elementary School	New Elementary Organization	Pupil Assignment				
		Elementary Kindergarten	Elementary Primary	Elementary Intermediate	Junior High (Grades 7-9)	Senior High (Grades 10-12)
FAIRMOOR	K/1-4	Fairmoor	1-4 Fairmoor	5-6 Fair	Eastmoor	Eastmoor
FAIRWOOD	K/5-6	Fairwood	#1-4 Liberty 1-4 Maybury	5-6 Fairwood	Yorktown	Walnut Ridge
FIFTH	K/4-6	Fifth	1-3 Weinland Park	4-6 Fifth	Everett	East
FOREST PARK	K/1-4	Forest Park	1-4 Forest Park	5-6 Cassidy	Woodward Park	Northland
FORNOF	K/1-4	Fornof	1-4 Fornof	5-6 Koebel	Beery	Marion Franklin
FRANKLINTON	K/1-6	Franklinton	1-3 Franklinton	4-6 Franklinton	Mohawk	Central
GABLES	K/1-4	Gables	1-4 Gables	5-6 Duxberry Park	Monroe	Centennial
GARFIELD	K/1-3	Garfield	1-3 Garfield	4-6 West Broad	Westmoor	West
GEORGIAN HEIGHTS	K/4-6	Georgian Heights	1-3 Highland	4-6 Georgian Heights	Wedgewood	West

#Pupils will be assigned by geographic area to one of these schools.

CHART 85 (Continued) PUPIL ASSIGNMENT: ALL SCHOOLS (Grades K, 1-12)

Former Elementary School	New Elementary Organization	Pupil Assignment				
		Elementary Kindergarten	Elementary Primary	Elementary Intermediate	Junior High (Grades 7-9)	Senior High (Grades 10-12)
GETTYSBURG	VACATED	Gables	1-4 Gables	5-6 Duxberry Park	Monroe	Centennial
GLADSTONE	K/5-6	Gladstone	#1-4 Salem 1-4 Sharon	5-6 Gladstone	Clinton	Northland
GLENMONT	VACATED	Indian Springs	1-3 Indian Springs	4-6 Brentnell	Dominion	Whetstone
HAMILTON	K/1-3	Hamilton	1-3 Hamilton	4-6 Clinton	Linmoor	Linden McKinley
HEIMANDALE	VACATED	Fornof	1-4 Fornof	5-6 Koebel	Beery	Marion Franklin
HEYL	K/1-4	Heyl	1-4 Heyl	5-6 Deshler	Barrett	South
HIGHLAND	K/1-3	Highland	1-3 Highland	4-6 Georgian Heights	Westmoor	West
HOMEDALE	VACATED	Sharon	1-4 Sharon	5-6 Gladstone	Ridgeview	Whetstone
HUBBARD	K/1-4	Hubbard	1-4 Hubbard	5-6 Second	Everett	East

#Pupils will be assigned by geographic area to one of these schools.

CHART 85 (Continued) PUPIL ASSIGNMENT: ALL SCHOOLS (Grades K, 1-12)

Former Elementary School	New Elementary Organization	Pupil Assignment				
		Elementary Kindergarten	Elementary Primary	Elementary Intermediate	Junior High (Grades 7-9)	Senior High (Grades 10-12)
HUDSON	K/5-6	Hudson	#1-4 Calumet 1-4 Como	5-6 Hudson	Crestview	Linden McKinley
HUY	K/4-6	Huy	1-3 Trevitt	4-6 Huy	Medina	Mifflin
INDIANOLA	VACATED ALTERNATIVE	Indianola	1-4 Eleventh	5-6 Medary	Indianola	Linden McKinley
INDIAN SPRINGS	K/1-3	Indian Springs	1-3 Indian Springs	4-6 Brentnell	Dominion	Whetstone
INNIS	K/1-6	Innis	1-3 Innis	4-6 Innis	Champion	Mifflin
JAMES ROAD	VACATED	Fairmoor	1-4 Fairmoor	5-6 Fair	#Eastmoor Johnson Park	Eastmoor
KENT	K/5-6	Livingston	1-4 Avondale #1-4 Dana	5-6 Livingston	Barrett	South
		Kent	1-4 West Mound #1-4 Easthaven 1-4 Leawood	5-6 Kent	Barrett	South

#Pupils will be assigned by geographic area to one of these schools.

CHART 85 (Continued)
PUPIL ASSIGNMENT: ALL SCHOOLS
(Grades K, 1-12)

Former Elementary School	New Elementary Organization	Pupil Assignment				
		Elementary Kindergarten	Elementary Primary	Elementary Intermediate	Junior High (Grades 7-9)	Senior High (Grades 10-12)
KENWOOD	K/4-6	Kenwood	1-3 Windsor	4-6 Kenwood	Ridgeview	Centennial
KINGSWOOD	K/4-6	Kingswood	1-3 Weinland Park	4-6 Kingswood	#Everett	East
KOEBEL	K/5-6	Koebel	#1-4 Fornof 1-4 Reeb	5-6 Koebel	Indianola	Marion Franklin
LEAWOOD	K/1-4	Leawood	1-4 Leawood	5-6 Kent	Buckeye	
LXINGTON	VACATED	Weinland Park	1-3 Weinland Park	#4-6 Fifth	#Johnson Park	#Independence
LIBERTY	K/1-4	Liberty	1-4 Liberty	4-6 Kingswood	Sherwood	Walnut Ridge
LINCOLN PARK	K/1-4	Lincoln Park	1-4 Lincoln Park	5-6 Fairwood	Everett	Whetstone
LINDBERGH	K/1-4	Lindbergh	1-4 Lindbergh	5-6 Southwood	Yorktown	Independence
				5-6 Ohio	Beery	South
					Hilltonia	Briggs

#Pupils will be assigned by geographic area to one of these schools.

130

CHART 85 (Continued)
PUPIL ASSIGNMENT: ALL SCHOOLS
(Grades K, 1-12)

Former Elementary School	New Elementary Organization	Pupil Assignment				
		Elementary Kindergarten	Elementary Primary	Elementary Intermediate	Junior High (Grades 7-9)	Senior High (Grades 10-12)
LINDEN	K/1-6	Linden	1-3 Linden	4-6 Linden	Crestview	Brookhaven
LINDEN PARK	VACATED	Linden Park	1-3 McGuffey	4-6 McGuffey	Crestview	Brookhaven
LIVINGSTON	K/5-6	Livingston	1-4 Avondale #1-4 Dana 1-4 West Mound	5-6 Livingston	#Barrett Mohawk	Central
		Beck	1-4 Beck	5-6 Beck	#Barrett Mohawk	Central
MAIN	K/1-3	Main	1-3 Main	4-6 Shady Lane	Mohawk	Walnut Ridge
MAIZE	K/4-6	Maize	1-3 Pilgrim	4-6 Maize	Clinton	Brookhaven
MARBURN	VACATED	Kenwood	1-3 Windsor	4-6 Kenwood	Ridgeview	Whetstone
MAYBURY	K/1-4	Maybury	1-4 Maybury	5-6 Fairwood	Southmoor	Independence

#Pupils will be assigned by geographic area to one of these schools.

131

CHART 85 (Continued)
PUPIL ASSIGNMENT: ALL SCHOOLS
(Grades K, 1-12)

Former Elementary School	New Elementary Organization	Pupil Assignment				
		Elementary Kindergarten	Elementary Primary	Elementary Intermediate	Junior High (Grades 7-9)	Senior High (Grades 10-12)
McGUFFEY	K/1-6	McGuffey	1-3 McGuffey	4-6 McGuffey	Linmoor	Brookhaven
MEDARY	K/5-6	Medary	1-4 Eleventh	5-6 Medary	Indianola	Linden McKinley
MILO	VACATED	Second	1-4 Hubbard	5-6 Second	Everett	Centennial
MOLER	K/5-6	Watkins Moler	1-4 Thurber 1-3 Watkins 1-4 Oakmont	1-4-6 Cedarwood 5-6 Moler	Buckeye Southmoor	Marion Franklin Independence
NORTH LINDEN	K/1-4	North Linden	1-4 North Linden	5-6 Eastgate	Clinton	Mifflin
NORTHGATE	K/1-4	Northgate	1-4 Northgate	5-6 South Mifflin	Mifflin	Beechcroft
NORTHBRIDGE	VACATED	Maize	1-3 Pilgrim	4-6 Maize	Clinton Linmoor	Beechcroft
NORTHTOWNE	K/1-4	Northtowne	1-4 Northtowne	5-6 East Columbus	Champion	Northland

1-4 Pupils will be assigned by geographic area to one of these schools.

132

CHART 85 (Continued)
PUPIL ASSIGNMENT: ALL SCHOOLS
(Grades K, 1-12)

Former Elementary School	New Elementary Organization	Pupil Assignment				
		Elementary Kindergarten	Elementary Primary	Elementary Intermediate	Junior High (Grades 7-9)	Senior High (Grades 10-12)
OAKLAND PARK	VACATED	Oakland Park	1-3 Trevitt	4-6 Huy	Medina	Brookhaven
OAKMONT	ALTERNATIVE K/1-4	Oakmont	1-4 Oakmont	5-6 Moler	Southmoor Yorktown Mohawk	Independence Walnut Ridge Briggs
OHIO	K/5-6	Ohio	1-4 Binns 1-4 Burroughs 1-4 Lindbergh	5-6 Ohio		
OLDE ORCHARD	K/5-6	Olde Orchard	1-4 Berwick 1-4 Scottwood	5-6 Olde Orchard	Yorktown	Walnut Ridge
PARKMOOR	K/1-4	Parkmoor	1-4 Parkmoor	5-6 East Columbus	Woodward Park	Northland
PARSONS	VACATED	Scioto Trail	1-3 Scioto Trail	4-6 Clarfield	Buckeye	Marion Franklin
PILGRIM	K/1-3	Pilgrim	1-3 Pilgrim	4-6 Maize	Champion Monroe	East Centennial

1-4 Pupils will be assigned by geographic area to one of these schools.

133

CHART 85 (Continued)
PUPIL ASSIGNMENT: ALL SCHOOLS
(Grades K, 1-12)

Former Elementary School	New Elementary Organization	Pupil Assignment				
		Elementary Kindergarten	Elementary Primary	Elementary Intermediate	Junior High (Grades 7-9)	Senior High (Grades 10-12)
PINECREST	K/1-4	#Leawood Pinecrest	#1-4 Leawood 1-4 Pinecrest	#5-6 Kent 5-6 Fair	Johnson Park	Eastmoor
REEB	K/1-4	Reeb	1-4 Reeb	5-6 Koebel	Beery	South
SALEM	K/1-4	Salem	1-4 Salem	5-6 Gladstone	Dominion	Whetstone
SCIOTO TRAIL	K/4-6	Scioto Trail	1-3 Clarfield	4-6 Scioto Trail	Beery	Marion Franklin
SCOTTWOOD	K/1-4	Scottwood	1-4 Scottwood	5-6 Olde Orchard	Johnson Park	Eastmoor
SECOND	K/5-6	Second	#1-4 Hubbard 1-4 Thurber	5-6 Second	Everett	Linden McKinley
SHADY LANE	K/4-6	Shady Lane	1-3 Main	4-6 Shady Lane	Sherwood	Walnut Ridge
SHARON	K/1-4	Sharon	1-4 Sharon	5-6 Gladstone	Dominion	Whetstone

#Pupils will be assigned by geographic area to one of these schools.

134

CHART 85 (Continued)
PUPIL ASSIGNMENT: ALL SCHOOLS
(Grades K, 1-12)

Former Elementary School	New Elementary Organization	Pupil Assignment				
		Elementary Kindergarten	Elementary Primary	Elementary Intermediate	Junior High (Grades 7-9)	Senior High (Grades 10-12)
SHEPARD	VACATED	East Columbus	1-4 Northtowne #1-4 Parkmoor	5-6 East Columbus	Eastmoor	Northland
SIEBERT	K/1-4	Siebert	1-4 Valley Forge	5-6 Deshler	Barrett	South
SMITH ROAD SOUTH	K/1-4	Smith Road	1-4 Siebert	5-6 Southwood	Southmoor	Independence
MIFFLIN	K/5-6	South Mifflin	1-4 Alpine			
SOUTHWOOD	K/5-6	Southwood	1-4 Northgate	5-6 South Mifflin	Woodward Park	Beechcroft
STEWARD	VACATED ALTERNATIVE	Stewart	#1-4 Lincoln Park 1-4 Smith Road	5-6 Southwood	Barrett	South
			1-3 Beck	4-6 Beck	Mohawk	South

#Pupils will be assigned by geographic area to one of these schools.

135

CHART 85 (Continued)
PUPIL ASSIGNMENT: ALL SCHOOLS
(Grades K, 1-12)

Former Elementary School	New Elementary Organization	Pupil Assignment				
		Elementary Kindergarten	Elementary Primary	Elementary Intermediate	Junior High (Grades 7-9)	Senior High (Grades 10-12)
STOCKBRIDGE	K/4-6	Stockbridge	1-3 Clarfield	4-6 Stockbridge	Buckeye	Marion Franklin
SULLIVANT	K/1-3	Sullivant	1-3 Sullivant	4-6 Westgate	Starling	Central
THURBER	K/1-4	Thurber	1-4 Thurber	5-6 Second	Everett	East
TREVITT	K/1-3	Trevitt	1-3 Trevitt	4-6 Huy	Monroe	Centennial
VALLEY FORGE	K/1-4	Valley Forge	1-4 Valley Forge	5-6 East Columbus	Clinton	Northland
VALLEYVIEW	VACATED	West Broad	#1-3 Beatty Park	4-6 West Broad	Westmoor	West
			1-3 Garfield			
WALDEN	K/1-4	Walden	1-4 Walden	5-6 Arlington Park	Woodward Park	Northland
WALFORD	VACATED	North Linden	1-4 North Linden	5-6 Eastgate	Clinton	Mifflin
WATKINS	K/1-3	Watkins	1-3 Watkins	4-6 Cedarwood	Beery	Marion Franklin

#Pupils will be assigned by geographic area to one of these schools.

136

CHART 85 (Continued)
PUPIL ASSIGNMENT: ALL SCHOOLS
(Grades K, 1-12)

Former Elementary School	New Elementary Organization	Pupil Assignment				
		Elementary Kindergarten	Elementary Primary	Elementary Intermediate	Junior High (Grades 7-9)	Senior High (Grades 10-12)
WAYNE	VACATED	Lindbergh	1-4 Lindbergh	5-6 Ohio	Hilltonia	Briggs
WEINLAND PARK	K/1-3	Weinland Park	1-3 Weinland Park	#4-6 Fifth	Indianola	Linden McKinley
WEST BROAD	K/4-6	West Broad	#1-3 Beatty Park	4-6 Kingswood	Westmoor	West
			1-3 Garfield	4-6 West Broad		
WEST MOUND	K/1-4	West Mound	1-4 West Mound	5-6 Livingston	Hilltonia	Central
WESTGATE	K/4-6	Westgate	1-3 Sullivant	4-6 Westgate	Mohawk	West
WILLIS PARK	VACATED	Shady Lane	1-3 Main	4-6 Shady Lane	Sherwood	Walnut Ridge
WINDSOR	K/1-3	Windsor	1-3 Windsor	#4-6 Cranbrook	Ridgeview	Whetstone
				4-6 Kenwood		
WINTERSET	K/1-4	Winteret	1-4 Winteret	5-6 Duxberry Park	Monroe	Centennial
WOODCREST	K/1-4	Woodcrest	1-4 Woodcrest	5-6 Moler	Sherwood	Walnut Ridge

#Pupils will be assigned by geographic area to one of these schools.

137

8. Career Center Programs

The Columbus City School District proposes to continue the program of vocational education through career centers. Existing procedures for enrollment in the various program offerings based on pupil interest, counselor assessment, program capacity, and racial balance will be observed.

9. Alternative School Programs

The Columbus City School District proposes to continue to offer alternative school programs, but only on a racially balanced basis.

Existing alternative school programs will be given first priority for opening. New alternative school programs will be considered as financial resources are available and as parent and pupil interest justify.

10. Columbus Plan Pupil Participation

All Columbus Plan transfers at a given grade level, except for those discussed above under "Career Center Programs" and "Alternative School Programs," will be terminated when that grade level is involved in implementation of the pupil assignment component of the Desegregation Remedy Plan. These pupils will report to their newly assigned school as specified herein.

B. Exceptions to Pupil Assignment

The Columbus City School District proposes that all pupils enrolled in the school district be involved in the Desegregation Remedy Plan with the following exceptions:

1. Kindergarten

Only pupils in grades 1-12 will be included. Kindergarten will be excluded.

2. Graduating Seniors

All pupils enrolled in the 12th grade at the beginning of the 1978-79 school year will be permitted to graduate from the high school in which they were enrolled in the 1977-78 school year, provided the school remains open as a senior high school for the 1978-79 school year. If the school is closed, seniors will be reassigned to the senior high school designated by the Desegregation Remedy Plan.

This exception will be in effect only for the 1978-79 school year.

3. Special Education Program Enrollees

Students enrolled in classes for the educable mentally retarded and for the learning and behavior disordered; as well as the low incidence handicapped — the blind and partially sighted, the deaf and hard of hearing, the orthopedically and multiply handicapped, and the severe behavior disorder cases — will not be part of the general Desegregation Remedy Plan.

Classes for the educable mentally retarded and learning behavior disordered pupils will be placed such that the resulting program enrollment will be racially desegregated.

Specialized physical facilities — and in three instances, specialized school buildings — will continue to be provided for the low incidence handicapped.

Tutoring services will continue to be provided for eligible pupils up to the limit of the school district's financial capacity.

4. Gifted and Talented

Pupils selected for the Gifted and Talented Program will not be included in the remedy plan. Pupil selection will occur so that the program will be racially balanced.

C. Pupil Transportation

The Columbus City School District proposes the following transportation system for the Desegregation Remedy Plan. Specifics are presented regarding the existing bus fleet, its use during the 1976-77 school year, and its anticipated uses in September, 1977, in January, 1978, and September, 1978. Specifics concerning additional bus fleet requirements due to involuntary pupil assignment in January, 1978 and September, 1978 are also presented. Finally, the specifics associated with pupil time in transit and distances to be traveled are presented.

1. The 1976-77 School Year Transportation System

End-of-year accounting indicates that during the 1976-77 school year the Columbus City School District transported 17,528 pupils using 222 board-owned vehicles, 28 contract carriers, taxi-service, and direct parent payments in lieu of school bus service.

The type and number of buses in the board-owned fleet were as follows:

Type of Bus	Number of Buses
66-Passenger	129
36-Passenger	39
16-21-Passenger	45
Wheelchair Lift Vans	9
TOTAL	222

All twenty-eight contract carriers were 66-passenger buses.

End-of-year accounting indicated the following transportation data for each pupil group transported.

Pupil Group Transported	Number of Pupils	Bus Loads	Equipment Used
Non-Public Pupils	2,333	59	55 sixty-six passenger buses and 4 vans
Secondary Columbus Plan Pupils	2,549	69	51 sixty-six passenger buses
Elementary Columbus Plan Pupils	1,028	43	38 vans 5 sixty-six passenger buses
Special Education Pupils	445	37	9 wheelchair lift van 28 vans
	1,437	—	Taxi-service
Residential Population	9,155	170	89 sixty-six passenger buses

In addition to the above, the Columbus City School District transported 581 pupils under agreements with parents which provided reimbursement payments in lieu of school bus service.

The Columbus City School District maintained a spare bus fleet of 12 sixty-six passenger buses and 14 vans.

This transportation system costs the Columbus City School District an estimated \$3,150,700.00 to operate.

2. The 1977-78 School Year: September, 1977 Transportation System

The Columbus City School District has anticipated the following transportation system without the impact of school desegregation for the 1977-78 school year.

The 1977-78 bus fleet is constituted as previously indicated at 222 units. The number of contract carrier buses has risen to 30 sixty-six passenger buses.

The Columbus City School District plans to employ board-owned buses, contract carriers, taxi-service, and parental reimbursement payments in lieu of school bus

service to transport an estimated 18,313 pupils in the following fashion. Specifics are presented for each pupil group to be transported.

<u>Pupil Group Transported</u>	<u>Number of Pupils</u>	<u>Bus Loads</u>	<u>Equipment to be Used</u>
Non-Public Pupils	2,333	59	55 sixty-six passenger buses 4 vans
Secondary Columbus Plan Pupils	3,280	99	69 sixty-six passenger buses
Elementary Columbus Plan Pupils	1,100	43	5 sixty-six passenger buses 38 vans
Special Education Pupils	450	37	9 wheelchair lift vans 28 vans
Residential Population	1,580	—	Taxi-service
	8,990	191	112 sixty-six passenger buses

In addition to the above, the Columbus City School District anticipates transporting 580 pupils under agreements with parents to provide reimbursement payments in lieu of school bus service.

The Columbus City School District plans to maintain a spare bus fleet of 14 vans and only four of the needed 13 sixty-six passenger buses.

This transportation system is estimated to cost the Columbus City School District \$3,927,407.00.

3. Desegregation Transportation Planning Considerations

As stated in the July 29, 1977 Federal District Court Order, The Columbus City School District is to implement the elementary school component of a pupil desegregation plan when schools reopen after January 1, 1978. The anticipated 1977-78 school year transportation system, described previously will need to be modified to accommodate the Desegregation Remedy Plan.

The following considerations were used in modifying the September, 1977 school year transportation system, and in formulating the 1978-79 school year transportation system.

Transportation Policy — Continue the current Board policy of providing transportation to students living more than two miles from their assigned school who are in grades K-9. Expand the Board policy on transportation to include the transportation of pupils in grades 10-12 living more than two miles from their assigned school when the high school component of the remedy plan is implemented.

Factors for Estimating Transportation — Base estimates of pupil transportation on the Board policy as noted above, include considerations of adverse safety conditions and the need for a pupil to walk past a school of appropriate grade assignment to reach the assigned school.

Distance — Measure distance on a school site to school site straight line basis. When it appears walking distance could exceed two miles, an estimate of the distance of the walking route will be applied in determining the estimate of students eligible for transportation.

Travel Time — Estimate travel time on a school site to school site basis in multiples of five minutes for each straight line mile. Note special traffic situations (congestion, freeways, bridges, etc.) and adjust times accordingly.

Loading — Use a loading factor of 66 pupils per elementary bus, 60 pupils per junior high bus and 55 per senior high bus.

Loads Needed — Calculate loads as indicated above. Use elementary attendance areas in planning and calculating the number of trips for elementary, junior and senior high schools.

Pick Up — Provide neighborhood (residential) or other appropriate pick-up locations for transported pupils.

Residential Transportation — Continue residential transportation within the current and expanded policy. Include residential transportation when determining the number of buses needed.

Starting Time — Assume two starting times in the Elementary phase of this Desegregation Plan and four starting times, one each for junior and senior high schools and two for elementary schools, in the Secondary phase of this Desegregation Plan.

Special Education — Needs will continue to be served on van vehicles. As the elementary Columbus Plan is modified, additional van buses will be used to transport special education pupils now transported on outside contracted services.

Non-Public — Requests have continued to increase during the last two years and have increased again this fall. The service is not expected to drop below the current 59 trip schedule.

Columbus Plan Secondary Pupils — These pupils will continue to be transported to their assigned school throughout the 1977-78 school year. Columbus Plan transfers for vocational programs, career centers and alternative programs will continue after the implementation of both the elementary and secondary phases of the desegregation plan. They would remain on the same time schedule initiated in September, 1977.

Columbus Plan Elementary Pupils — The elementary Columbus Plan will be modified at the time of implementation of the desegregation plan and will include

transportation to and from the five existing alternative schools plus any additions the Board of Education elects to add. The transportation of elementary pupils will be redesigned for greater efficiency and will use 66 passenger buses in place of the smaller units now in service.

4. January, 1978 Modification of the September, 1977 Transportation System

The following transportation requirements will have to be met by the Columbus City School District when the court-ordered elementary component of school desegregation is implemented after January 1, 1978. All requirements are presented in terms of the pupil group to be transported.

<u>Pupil Group Transported</u>	<u>Number of Pupils</u>	<u>Bus Loads</u>
Non-Public Pupils	2,333	59
Secondary Career-Vocational Pupils	1,704	48
Secondary Program Transfer Pupils	1,376	46
Secondary Alternative School Pupils	200	5
Elementary Alternative School Pupils	1,500	25
Special Education Pupils	2,030	154
Secondary Residential Pupils	3,789	81
Elementary Level Desegregation Transfers	20,609	353
TOTAL	35,541	771

Of the bus load total of 771, 145 pupils loads will be accommodated by 70 thirty-six passenger vans (66 for special education pupils and four for non-public pupils) and 9 wheelchair lift vans for special education pupils.

Thirteen (13) special education pupil loads will still need to be transported by taxi-service. The remaining 613 pupil loads need to be transported with sixty-six passenger buses. Using a two-bell school starting schedule these 613 pupil loads would be transported in the following fashion:

<u>Bell Schedule 1</u>	<u>Bell Schedule 2</u>	<u>Buses Required</u>
55 Non-Public Pupil Loads	55 Elementary Desegregation Pupil Loads	55
48 Secondary Career-Vocational Pupil Loads	14 Elementary Desegregation Pupil Loads	34
46 Secondary Program Transfer Pupil Loads	15 Elementary Desegregation Pupil Loads	35
5 Secondary Alternative School Pupil Loads	0 Elementary Desegregation Pupil Loads	5
81 Secondary Residential Pupil Loads	69 Elementary Desegregation Pupil Loads	81
100 Elementary Desegregation Pupil Loads	100 Elementary Desegregation Pupil Loads	100
25 Elementary Alternative School Pupil Loads	0 Elementary Desegregation Pupil Loads	25
<hr/> 360 Loads	<hr/> 253 Loads	<hr/> 335 Buses

A total of 369 sixty-six passenger buses including 34 spares are required, the school district owns 129 and estimates having lease agreements for 30 contract carriers for a total of 159 vehicles. An additional fleet of 210 sixty-six passenger buses would be needed 176 of which would comprise the operational fleet.

5. Acquiring the Needed Equipment for the January, 1978 Desegregation Component

The Columbus City School District Board of Education authorized its legal counsel to retain the firm of Simpson and Curtin, Inc., Philadelphia, Pennsylvania, to perform the transportation study ordered by the Court on July 29, 1977. That report accompanies this plan.

The report identified five possible means of securing the transportation resources required to desegregate the Columbus City School District. It also includes the number of school bus coaches which would be required by both elementary and secondary involuntary pupil reassignments. The report also evaluated the availability and adequacy of each source of transportation in terms of its ability to satisfy the needs projected.

The report states that sufficient new buses could not be purchased in time to accomplish a January, 1978 desegregation of the elementary school population. A national leasing firm, ARA of California, would not provide enough information to truly evaluate the possible use of the transportation services available from such leasing agencies. No agreement appears possible with the Central Ohio Transit Authority. There is a possibility that up to thirty 66-passenger school buses could be loaned to the Columbus City School District by other Ohio school districts. Finally, the report indicates that there will likely be a supply of used buses available resulting from trade-ins by other Ohio school districts. However, it is somewhat improbable that the latter could be obtained to accommodate a January implementation.

Simpson and Curtin, Inc., state that "about 60 percent utilization can be counted upon for day-to-day use with a fleet made up entirely of second-hand school buses." This would mean that the true purchase requirement for used vehicles would be 167 percent of day-to-day operating

needs. In this instance, the operating fleet need is 176 sixty-six passenger buses and 13 spares for the board-owned 66-passenger bus fleet of 129 vehicles. Applying the recommended 167 percent factor would increase the purchase requirement to 315 sixty-six passenger buses.

Though the Simpson and Curtin, Inc. report indicates that the used-bus option might possibly accommodate a January, 1978 implementation, it is not recommended.

6. The 1978-79 School Year Transportation System

Beginning with the opening of school in the 1978-79 school year, the Columbus City School District has been ordered by the Federal District Court to implement a secondary school desegregation plan. The transportation requirements incumbent on the school district at that time are estimated to be as follows. Again, the information is presented in terms of the pupil group to be transported.

<u>Pupil Group Transported</u>	<u>Number of Pupils</u>	<u>Bus Loads</u>
Non-Public Pupils	3,500	65
Secondary Career-Vocational Pupils	2,112	56
Secondary Alternative School Pupils	320	8
Elementary Alternative School Pupils	1,500	25
Special Education Pupils	2,030	154
Elementary Level Desegregation Transfers	20,609	353
Junior High Level Desegregation Transfers	10,069	185
Senior High Level Desegregation Transfers	10,809	212
TOTAL	<u>50,949</u>	<u>1,058</u>

Of the bus load of 1,058, 145 loads would be accommodated by 70 thirty-six passenger vans, (66 for special education pupils and 4 for non-public pupils) and 9 wheel-chair lift vans for special education pupils. Thirteen special education pupil loads will again be transported by taxi-service. The remaining 900 pupil loads would need to be transported with sixty-six passenger buses. Using the four-bell school starting schedule listed under "Desegregation Transportation Planning Considerations" on page 114 of this document these 900 pupil loads would be transported as shown in Table 2.

The total 66-passenger bus fleet required is 338 vehicles plus a 10 percent spare factor, or 372 buses. Of this total, 336 buses will be used for desegregation.

TABLE 2
TRANSPORTATION OF 66-PASSENGER
BUS LOADS IN SEPTEMBER, 1978
BY BELL SCHEDULE

Bell Schedule 1	Bell Schedule 2	Bell Schedule 3	Bell Schedule 4	Total Buses
65 Non-Public Pupil Loads	4 Junior High Desegregation Pupil Loads	20 Elementary Desegregation Pupil Loads	41 Elementary Desegregation Pupil Loads	65
56 Secondary Career-Vocational Pupil Loads	—	28 Elementary Desegregation Pupil Loads	—	28
212 Senior High Desegregation Pupil Loads	181 Junior High Desegregation Pupil Loads	130 Elementary Desegregation Pupil Loads	130 Elementary Desegregation Pupil Loads	212
—	8 Junior High Alternative Pupil Loads	—	—	8
—	—	25 Elementary Alternative Pupil Loads	—	25
333 TOTAL	193 TOTAL	203 TOTAL	171 TOTAL	338

150

151

7. September, 1978 Bus Fleet Considerations

The method used to acquire the bus fleet necessary to desegregate the secondary school population is dependent upon the fleet acquisition for the January, 1978 elementary desegregation component.

If the recommendation of Simpson and Curtin, Inc. were followed, no elementary school desegregation would have occurred in that new school buses could not have been purchased in time. However, if used school buses were purchased, delivered, and operated, the Columbus City School District would have 444 used 66-passenger school buses on hand in September, 1978.

Of the aforementioned board-owned fleet of 444 used 66-passenger buses, 129 would be retained for service in the 1978-79 school year. Following the recommendation of Simpson and Curtin, Inc., the remaining fleet of 315 sixty-six passenger school buses would be traded in on 213 new sixty-five passenger buses. An additional expenditure of funds would be required.

If a contract lease agreement were effected in January, 1978 for elementary school desegregation, the Columbus City School District would need to terminate that contract and purchase 213 new 65-passenger school buses.

If no desegregation occurred in January, 1978 the Columbus Board of Education would have no buses to trade-in, and no lease contract to terminate, but would have to purchase 213 new 65-passenger school buses.

Whether or not the elementary pupil reassignment component is first implemented in January, 1978 or September, 1978, the Columbus City School District will need to purchase 213 new 65-passenger school buses to accommodate the entire pupil reassignment component in September, 1978.

In summary, the recommendation of the Simpson and Curtin, Inc. firm is that the most preferred manner of acquiring transportation to desegregate the Columbus

City School District is the purchase of new vehicles. The only alternative open is the purchase of used school buses being traded-in by other Ohio school districts this Fall and the borrowing of 30 spare school buses from other Ohio school districts. The trade-in buses could only be used for the period January, 1978 through June, 1978 and would be buses which the Ohio Department of Education would have already certified as unserviceable, unsafe, or non-cost-effective. Substantial funds would have to be spent to re-condition the trade-in buses.

The firm of Simpson and Curtin, Inc. recommends against the purchase or use of used school buses. Agreement with this recommendation would require that all pupil reassignment initially occur in September, 1978.

8. Transportation Specifics in Terms of Pupil Time in Transit and Distances to be Traveled

When all components of the pupil reassignment plan are implemented, pupils will be eligible for transportation for the following reasons: Involuntary Desegregation Transfers, Alternative School Enrollment, and Career-Vocational Transfers. The table below contains the numbers of pupils eligible for transportation for each phase of the Desegregation Remedy Plan and for each of the aforementioned reasons for transportation eligibility.

TABLE 3
ESTIMATED NUMBERS OF PUPILS ELIGIBLE FOR
TRANSPORTATION BY COMPONENT
AND PURPOSE

	Voluntary Transfers		
	Involuntary Transfers	Alternatives	Career-Vocational Program
Elementary Component	20,609	1,700	1,704
Secondary Component	20,878	120	2,112
	41,487	1,820	3,816

The amount of time a pupil spends riding a bus is a function of the distance to be traveled, the types of surface routes to be used, the volume of traffic, and the number of pick-up points involved for a particular route. The transportation of court-ordered, involuntary desegregation transfers is similarly affected. The Columbus City School District Desegregation Remedy Plan would involve the following estimated site-to-site riding times for involuntary transfers.

Elementary pupils would ride a bus for a minimum of five minutes to a maximum of twenty-five minutes, with the median travel time being twenty minutes.

Junior high pupils would ride a bus from a minimum of five minutes to a maximum of thirty minutes, with the median travel time being ten minutes.

Senior high pupils would ride a bus from a minimum of five minutes to a maximum of twenty-five minutes, with the median travel time being ten minutes.

The estimated straight-line, school site to school site mileage that involuntary-transfer pupils will travel ranges from less than two miles to approximately seven miles at the elementary and from less than two miles to eight miles at the junior high level. Senior high students residing more than two miles from their assigned high school will receive transportation if requested. If transportation is requested by all, they could be transported from two miles to eight miles.

The cost of the pupil transportation component is found in Section II of this document.

Table 4 contains a summarization of transportation data for all involuntary transfers associated with the Desegregation Remedy Plan. It includes numbers of students transported, percent of students transported, and average years transported for black and non-black students. Totals

are also presented. As well, school site to school site mileage is presented in frequency distribution form. The same is true for time spent being transported from school site to school site. Median statistics and range statistics are presented in these latter two cases.

TABLE 4
SUMMARY TRANSPORTATION DATA
BY REMEDY PLAN

Elementary Transportation Data

Number of Students Transported

Black	7,496
Non-Black	13,113
Total	20,609

Percent Students Transported

Black	36.4%
Non-Black	63.6%

Average Years Transported of Those Students Transported

Black	3.6 years
Non-Black	3.0 years
Total	3.2 years

Distance Transported (School Site to School Site)

Range:	
Less than 2 miles	25
2-3 miles	14
3-4 miles	9
4-5 miles	22
5-6 miles	34
6-7 miles	12
7-8 miles	
8-9 miles	
Median	4-5 miles
Range	Less than 2-7 miles

TABLE 4 (Continued)

Time Spent Being Transported (School Site to School Site)

5 minutes	13
10 minutes	23
15 minutes	5
20 minutes	40
25 minutes	35
30 minutes	
Median	20 minutes
Range	5-25 minutes

Junior High Transportation Data

Number of Student Transported

Black	4,030
Non-Black	6,039
Total	10,069

Percent Students Transported

Black	40.0%
Non-Black	60.0%

Average Years Transported of Those Students Transported

Black	3.0 years
Non-Black	3.0 years
Total	3.0 years

Distance Transported (School Site to School Site)

Range:	
Less than 2 miles	31
2-3 miles	21

TABLE 4 (Continued)

3-4 miles	2
4-5 miles	7
5-6 miles	11
6-7 miles	3
7-8 miles	2
8-9 miles	
Median	2-3 miles
Range	2-8 miles
Time Spent Being Transported (School Site to School Site)	
5 minutes	5
10 minutes	30
15 minutes	3
20 minutes	6
25 minutes	18
30 minutes	
Median	10 minutes
Range	5-30 minutes
Senior High Transportation Data (based on 2 mile limit)	
Number of Students Transported	
Black	4,731
Non-Black	6,078
Total	10,809
Percent Students Transported	
Black	43.8%
Non-Black	56.2%
Average Years Transported of Those Students Transported	
Black	3.0 years
Non-Black	3.0 years
Total	3.0 years

TABLE 4 (Continued)

Distance Transported (School Site to School Site)	
Range:	
Less than 2 miles	28
2-3 miles	21
3-4 miles	2
4-5 miles	7
5-6 miles	3
6-7 miles	2
7-8 miles	
8-9 miles	
Median	2-3 miles
Range	Less than 2-8 miles
Time Spent Being Transported (School Site to School Site)	
5 minutes	2
10 minutes	38
15 minutes	11
20 minutes	11
25 minutes	12
30 minutes	
Median	10 minutes
Range	5-25 minutes

In the United States District Court
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

GARY L. PENICK, et al.,
Plaintiffs

-VS-

COLUMBUS BOARD OF
 EDUCATION, et al.,
Defendants.

Civil Action
 No. C-2-73-248
 JUDGE DUNCAN

REVISIONS TO PAGES 125-135
OF COLUMBUS BOARD OF EDUCATION'S
RESPONSE TO THE COURT'S
JULY 29, 1977 ORDER

Defendant Columbus Board of Education submits herewith the attached revised pages 125-135 of the Columbus Board of Education's Response to the Court's July 29, 1977 Order, which was filed August 31, 1977.

Respectfully submitted,

SAMUEL H. PORTER

CURTIS A. LOVELAND

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II. THE DESEGREGATION BUDGET

A. The Phase I Budget

On August 16, 1977 the Columbus City School District approved a response to certain desegregation preparation court orders. The summary budget contained in that response was as follows.

Program	Budget	
	1977-78	1978-79
Pupil Orientation — Elementary Level	\$ 20,156.00	\$ —0—
Pupil Orientation — Secondary Level	17,990.00	—0—
Multi-Cultural Curriculum — Elementary Level	26,030.00	—0—
Multi-Cultural Curriculum — Secondary Level	32,800.00	—0—
Staff Orientation	103,780.00	119,466.00
Community Orientation and Information Services	142,477.00	129,283.00
Reading Development	3,320,067.00	3,460,652.00
Total	\$3,663,300.00	\$3,709,401.00
Two-Year Total		\$7,372,701.00

B. The Phase I Budget Revised

When the Columbus City School District initiated the organizational planning associated with its August 16, 1977 response to the July 29, 1977 Court order, certain alterations had to be made in the original plan. Originally, the 1977-78 total cost was to \$3,663,300; however, when the personnel were assigned to the task their replacements

cost more than anticipated. The new Phase I budget is as follows.

Program	Budget	
	1977-78	1978-79
Pupil Orientation — Elementary Level		\$ —0—
Pupil Orientation — Secondary Level		—0—
Multi-Cultural Curriculum — Elementary Level	\$ 446,040.00	—0—
Multi-Cultural Curriculum — Secondary Level		—0—
Staff Orientation		119,466.00
Community Orientation and Information Services	\$ 142,477.00	129,283.00
Reading Development	3,320,067.00	3,460,652.00
Total	\$3,908,584.00	\$3,709,401.00
Two-Year Total		\$7,617,985.00

C. The Phase II Budget

The desegregation of the Columbus schools could cost \$19,022,101 depending on the initial transportation option selected: contract lease, or used bus purchase. However, the cost of the contract lease option cannot be determined due to the unavailability of such information from potential lessors. Hence, only the used bus purchase option will be presented here.

1. The Transportation System

a. Needed Equipment — January, 1978

To implement the elementary component of this Desegregation Remedy Plan, 315 used, sixty-six passenger school buses would be required. Their purchase price is

estimated to be \$3,800 each. They would also cost an estimated \$1,500 each to ready them to pass State Highway Patrol inspections. This would total to \$5,300 each. The total cost would be \$1,669,500. The State of Ohio would reimburse the Columbus City School District 35 percent of a depreciated cost based on a current market value of \$14,236. This amount is depreciated 10 percent per annum: 20 percent the first year and 10 percent each year thereafter. The reimbursement could range from zero to \$1,255,277. However, a final figure cannot be computed until all these used buses are purchased.

As well, each of these used buses would require a two-way radio. Each radio would cost \$885. This cost would be \$278,775. The current school district bus fleet is not totally equipped with the necessary radio equipment. In order to accomplish maximum flexibility through interchangeability among the school district's 66- and 65-passenger bus fleet 43 buses will need to be equipped with two-channel, two-way radios. In order that contact with the special education bus fleet can be maintained at all times 55 radios need to be purchased and installed, each at a cost of \$885. The total radios needed is 98 and the total cost of this purchase to the city school district would be \$86,730. The total radio purchase price for all buses would then be \$365,505.

The school district would also need to purchase a large wrecker at \$28,000 and service truck for \$10,000.

Total equipment costs would be \$2,073,005 less a to-be-determined amount of state reimbursement.

b. Needed Personnel — January, 1978

The Columbus City School District would need to employ 176 regular, part-time school bus drivers and 14 substitute, part-time school bus drivers. These 190 drivers would be employed for five hours daily for 120 days each. These drivers will also be employed for 80 hours of pre-service training. The hourly rate of pay for pre-service

training would be \$4.58 plus 16.056 percent for fringe benefits or \$5.32 and the hourly rate of pay for regular service would be \$4.68 plus 16.056 percent for fringe benefits or \$5.43 per hour. The total 1977-78 school year cost for each driver would be \$3,684. Total driver cost would be \$699,960. The State of Ohio would reimburse the school district \$7 per driver trainee or \$1,330. The net driver cost would then become \$698,630.

One automotive body mechanic would need to be employed at a cost of \$8,313 plus 16.056 percent for fringe benefits or a cost of \$9,648.

Five automotive service workers would need to be employed at a cost of \$7,185 each plus 16.056 percent for fringe benefits or \$8,339 for a total 1977-78 school year cost of \$41,695.

An automotive parts clerk would be employed at a cost of \$7,185 plus 16.056 percent for fringe benefits or \$8,339 for a total school year cost of \$8,339.

Twelve automotive mechanics would be employed: six mechanic I's and six mechanic II's. The former would cost \$7,973 each plus 16.056 percent for fringe benefits or \$9,253 each. The latter group would cost \$8,237 plus 16.056 for fringe benefits or \$9,560 each. The total cost for these personnel would be \$112,878.

Three typist-clerk II's would be employed at a cost of \$5,836 each plus 16.056 percent for fringe benefits or \$6,773 each. The total cost would be \$20,319.

Six assistant bus supervisors would be employed at a cost of \$8,847 each plus 16.056 percent for fringe benefits or \$10,267 each. The total cost for these personnel would be \$61,602.

One bus dispatcher would be employed at a cost of \$8,847 plus 16.056 percent for fringe benefits or \$10,267.

One certificated 52-week supervisor would be employed at a cost of \$17,506 plus 17.056 percent for fringe benefits or \$20,492.

Forty certificated pupil personnel specialists would be employed at an average salary of \$17,021 plus 17.056 percent for fringe benefits or \$19,924 each. The total cost for these personnel would be \$796,960.

Total elementary desegregation component personnel costs would be \$1,780,830 for an eight-month period.

c. Needed Capital Improvement — January, 1978

Three new bus storage facilities would be required at a cost of \$552,000, exclusive of land purchase expenses.

A new body shop facility would be needed at a cost of \$121,000, exclusive of land purchase expenses.

Expansion of the present bus storage and maintenance facilities would cost \$298,000, exclusive of land purchase expenses.

The total capital improvements expenses required exclusive of land purchase expenses would be \$971,000.

d. Required Bus Operation and Maintenance Costs — January, 1978

End-of-year accounting indicates that the per-pupil cost of school bus operation and maintenance in the Columbus City School District was \$35. Using this figure as an index, the estimated cost of transporting 20,609 elementary, involuntary desegregation transfer pupils would be \$721,315. The estimate of State of Ohio reimbursement for this amount would be \$23 per pupil or \$474,007.

Conversations with Ohio Department of Education desegregation consultants indicate that this estimate should be inflated by as much as 50 percent because used buses would be the prime vehicle in use. However, as the above estimate is based on a full school year's transportation costs and the bus fleet would only be in use 60 percent of the 1977-78 school year, it can be balanced against the 50 percent suggested estimate and be permitted to stand.

**e. Total Required Transportation Cost —
January, 1978**

The following transportation costs would be incurred by the Columbus City School District if a January, 1978 desegregation of elementary schools were to occur as described herein.

Equipment	\$2,073,005 ^a
Personnel	1,780,830
Capital Improvements	971,000
Operation and Maintenance	721,315
Sub Total	5,546,150
State Reimbursement	(474,007)
Total	\$5,072,143

^aThis cost would be reduced by a yet-to-be-determined State of Ohio bus purchase reimbursement.

f. Needed Equipment — September, 1978

No matter the option selected in January, 1978 from no implementation to implementation with leased or used buses 213 new 65-passenger buses would need to be purchased as recommended by Simpson and Curtin, Inc., for initiation of the secondary component of this pupil desegregation plan or for implementation of the total desegregation contained herein. Each of these buses would cost \$19,100. If an elementary desegregation component had been implemented in January, 1978, no two-way radios would be required and the cost of each bus would be reduced to \$18,215.

The former figures would yield a total cost of \$4,068,300 and the latter a total cost of \$3,879,795. In either case, State of Ohio reimbursement would be the same: 35 percent of \$14,236 or \$4,982.60 per bus for a

total reimbursement of \$1,061,294. As well, if a January, 1978 elementary component were implemented, 315 used 66-passenger buses would be available for trade at an estimated value of \$1,800 per bus for a total value of \$567,000. Thus, the total bus cost for a September, 1978 secondary school desegregation component could range from \$2,251,501 to \$3,007,006.

Additional radio service for board-owned vehicles could range from zero to \$86,730, depending on whether or not an elementary desegregation component were implemented in January, 1978. If not, the second figure would apply; if so, the first.

The \$28,000 cost of a wrecker and the \$10,000 cost of a service truck would also be attributed to this date unless the January, 1978 component implementation required the purchase earlier.

Total equipment cost for the September, 1978 Desegregation Remedy Plan contained herein would be \$2,251,501 if it were preceded by a January, 1978 elementary school desegregation implementation and \$3,131,736 if it were not.

g. Needed Personnel — September, 1978

Seven additional part-time bus drivers would need to be employed for 195 days each for six hours per day in addition to 80 hours of pre-service training. The per-hour cost would be \$4.93 plus 16.056 percent for fringe benefits or \$5.72 per hour. The cost per driver would be \$7,150 and the total cost for seven additional drivers would be \$50,050 less a total of \$49 state reimbursement for seven driver trainees or \$50,001. The cost of the previously employed 190 drivers would be \$5.87 including 16.056 percent for fringe benefits per hour for 1,210 hours or \$7,103 each or a total of \$1,349,570.

The cost of other employee groups previously cited in the January, 1978 section of this budget would be as

follows for this desegregation component. All costs include fringe benefits of 16.056 or 17.056 whichever is appropriate.

<u>Employee Group</u>	<u>Number</u>	<u>Unit Cost</u>	<u>Total Cost</u>
Automotive Body Mechanic	1	\$15,885	\$ 15,885
Automotive Service Worker II	5	13,486	67,430
Automotive Parts Clerk	1	13,486	13,486
Automotive Mechanic I	6	14,983	89,898
Automotive Mechanic II	6	15,885	95,310
Typist-Clerk II	3	11,700	35,100
Assistant Bus Supervisors	6	16,982	101,892
Bus Dispatcher	1	16,982	16,982
Certificated Supervisor	1	31,520	31,520
Pupil Personnel Specialist	40	21,267	850,680
Total			\$1,318,183

The total personnel costs of the September, 1978 pupil desegregation component would be \$2,713,859 whether or not it was preceded by a January, 1978 pupil desegregation component.

h. Needed Capital Improvements — September, 1978

If this component of the Desegregation Remedy Plan is preceded by a January, 1978 component, there are no capital improvement costs associated with this component. Otherwise, the capital improvements budget required at this point is \$971,000.

i. Required Bus Operation and Maintenance Costs — September, 1978

Using the 1976-77 per-pupil bus operation and maintenance cost of \$35 as a beginning index and inflating it by

eight percent, an index of \$38 per pupil may be used to estimate the bus operation and maintenance costs associated with this desegregation component. This plan indicates that 41,487 pupils will be transported in this desegregation component. The total bus operation and maintenance budget required would be \$1,576,506. State reimbursement is estimated to be \$40 per pupil resulting in a total reimbursement of \$1,659,480.

j. Total Required Transportation Cost — September, 1978

The following transportation costs would be incurred by the Columbus City School District in this component of the Desegregation Remedy Plan.

	<u>January, 1978 Component-Yes</u>	<u>January, 1978 Component-No</u>
Equipment	\$2,251,501	\$3,131,736
Personnel	2,717,754	2,717,754
Capital Improvements	—0—	971,000
Operation and Maintenance	1,576,506	1,576,506
Sub Total	6,545,761	8,396,996
State Reimbursement	(1,659,480)	(1,659,480)
Total	\$4,886,281	\$6,737,516

2. Other Costs

a. Needed Equipment — January, 1978

Funds for the purchase of extra telephone service in schools, of radio communication equipment, of portable communications equipment, of portable sound equipment in schools would cost an estimated \$203,300.

b. Contract Carrier Costs — January, 1978

Recall that 30 contract 66-passenger buses are to be employed in the January, 1978 desegregation transporta-

tion plan. These buses will carry one desegregation pupil load daily of 66 pupils. The 1976-77 cost of this transportation was \$130 per pupil. During 1977-78 this cost is estimated to be \$140 per pupil. The cost of transporting 1,980 pupils will be \$166,320 for the January, 1978-June, 1978 period.

c. Needed Personnel — January, 1978

An in-system security unit would be established that would work at the direction of the Division of Administrative Services. This unit would be comprised of six (6) specially trained persons who would be responsible for crisis control, liaison between state and local agencies, surveillance, and the coordination of other security related activities. The cost of this unit would include one director at a cost of \$18,802 plus 17.056 percent for fringe benefits or \$22,009. Also included would be five specialists at a cost of \$12,361 plus 17.056 percent for fringe benefits or \$14,469 each. The total cost of this unit would be \$94,354.

d. Total Other Costs — January, 1978

The total cost for the above additional but needed equipment and personnel plus \$150,000 for external computer services is \$447,654.

e. Needed Personnel — September, 1978

The cost of an in-system security unit for this component of the Desegregation Remedy Plan would be \$29,373 plus 17.056 percent for fringe benefits or \$34,383. Five specialists would cost \$17,724 plus 17.056 percent for fringe benefits or \$20,747 each. The total cost of specialists would be \$103,735. The total cost of this unit would be \$138,118 whether or not it were preceded by a January, 1978 desegregation component.

f. Needed Equipment — September, 1978

No additional costs would be incurred in this area at this time unless no January, 1978 component occurred. The cost in that instance would be \$203,300 for the desegregation component.

g. Contract Carrier Costs — September, 1978

Thirty contract carrier 66-passenger buses are projected as part of the September, 1978 desegregation transportation plan. These buses will carry two pupil loads daily of an average of 60 pupils per load or 120 pupils daily. The 1978-79 per pupil cost for this service is estimated to be \$151. The cost of transporting 3,600 pupils will be \$543,600 for the September, 1978-June, 1979 period.

h. Total Required Other Costs — September, 1978

The following additional but required costs would be incurred by the Columbus City School District in this component of the Desegregation Remedy Plan.

	January, 1978 Component-Yes	January, 1978 Component-No
Equipment	—0—	\$ 203,300
Purchased Services	\$316,320	843,600
Personnel	94,354	138,118
Total	\$410,674	\$1,185,018

C. Total Desegregation Costs

Depending on the order of implementation the costs for desegregating the Columbus City School District would approximate the following schedules.

Schedule A

Elementary school desegregation is implemented in January, 1978 and Secondary school desegregation is implemented in September, 1978.

Expenditure Category	January 1, 1978 Amount	September, 1978 Amount	Total
Transportation Purchased Services	316,320	693,600	\$ 1,009,920
Transportation Equipment	2,073,005 ^a	2,251,501	4,324,506 ^a
Transportation Personnel	1,780,830	2,717,754	4,498,584
Transportation Capital Improvements	971,000	—0—	971,000
Transportation Operation and Maintenance	721,315	1,576,506	2,297,821
Other Equipment	203,300	—0—	203,300
Other Personnel	94,354	138,118	232,472
Phase I Costs	3,908,584	3,709,401	7,617,985
Sub Total	10,068,708 ^a	11,086,880	21,155,588 ^a
State Reimbursement	(474,007)	(1,659,480)	(2,133,487)
Total	\$ 9,594,701 ^a	\$ 9,427,400	\$19,022,101 ^a

^aThis cost would be reduced by a yet-to-be-determined State of Ohio used bus purchase reimbursement.

The funds represented in Schedule A will finance desegregation costs incurred by the Columbus City School District from December 1, 1977 through July 31, 1979.

Schedule B

Total Desegregation in September, 1978

Expenditure Category	Cost
Transportation Purchased Services	\$ 843,600
Transportation Equipment	3,131,736
Transportation Personnel	2,717,754
Transportation Capital Improvements	971,000
Transportation Operation and Maintenance	1,576,506
Other Equipment	203,300
Other Personnel	138,118
Phase I Costs	4,366,635
Sub Total	13,948,649
State Reimbursement	(1,659,480)
Total	\$12,289,169

The funds represented in Schedule B will finance desegregation costs incurred by the Columbus City School District from August 1, 1978 through July 31, 1979.

The cost of purchasing used buses to accomplish a January, 1978 elementary desegregation needs to be considered in light of the facts that —

- Total desegregation in September, 1978 costs 35 percent less than desegregating elementary schools in January, 1978 and secondary schools in September, 1978.
- Safer more reliable transportation could be provided each pupil.

III. SCHOOL DISTRICT BUDGET STATUS

The Columbus City School District would remind the Court of the statement of budget and finance submitted in both the June 10, 1977 and July 8, 1977 Desegregation Remedy Plans. That statement is still highly relevant to

school district operations and most especially to the implementation of a pupil desegregation plan. The critical financial factors associated with this plan follow.

The Columbus City School District would need to spend money they do not presently possess in order to implement the Desegregation Remedy Plan submitted herewith.

The actions described in this Desegregation Remedy Plan will cost the Columbus City School District approximately \$19,022,101. These dollars are above the anticipated 1977, 1978, and 1979 revenues of the Columbus City School District.

The Board of Education will be asked to place a levy on the ballot in 1977 in an attempt to secure additional local tax funds to maintain the current level of operation and provide funds for the educational programs provided in this plan. It will be necessary for the Board to consider the probability of passage of the levy in arriving at its decision of when to place the issue on the ballot.

The Columbus City School District has insufficient funds to even maintain present operations. If additional funding from state, federal, local, or private sources is not available in an amount sufficient to sustain operations and fund this remedy plan, the only alternative left will be to close the schools. If the remedy plan is implemented in January, 1978, the estimated January through December cost would be approximately \$10.5 million. Other costs incurred in 1977 would increase the estimated 1977 deficit to \$4.7 million but would not cause the closing of the Columbus City School District in 1977. Even though schools will remain open throughout 1977, the added costs could require the closing of school as early as October 18, 1978, without additional funds. Such school closings are required by the Ohio Revised Code when the cash balance falls to zero, as determined by the Auditor of the State of Ohio.

MEMORANDUM AND ORDER

[Filed September 16, 1977]

[Caption Omitted in Printing]

On August 31, 1977, the Columbus Board of Education submitted its response to this Court's order of July 29, 1977. The July 29 order required the submission of a plan including provisions for the reassignment of elementary school students in January 1978. The Columbus defendants claim that new school buses cannot be purchased and delivered by January 1978; therefore, some used vehicles and other used equipment will have to be purchased in order to meet the January 1978 implementation requirement. In this regard the Columbus Board's submission contains two recommendations:

THEREFORE, BE IT RESOLVED, that the Board of Education recommends against the purchase of second-hand or used school buses and transportation equipment because of safety, financial, and administrative considerations, and authorizes and directs legal counsel to so notify the Court when the new pupil reassignment plan is submitted.

BE IT FURTHER RESOLVED, that legal counsel is authorized and directed to notify the Court that the Board of Education recommends against implementation of the pupil reassignment plan until such time as adequate new school buses can be obtained, thus assuring safe and reliable school transportation for the students required to be transported.

The transportation report filed by the State Board of Education states that:

Pupil transportation can be provided for implementing a January 1978 desegregation plan of the elementary schools in Columbus provided sufficient lead-time is given to consummate the available options identified in this study. Given experiences with certain leasing arrangements and the problems associated with used buses, it is not possible to assure the

desirability, economy or efficiency of such transportation.

On September 13, 1977, the plaintiffs filed a response to the defendants' August 31 submissions in which they stated their belief that the study of transportation requirements and alternatives submitted by the defendant Columbus Board of Education is "inadequate and does not justify the conclusions drawn by the defendants." The plaintiffs assert that "[t]he costs figures concerning transportation as proposed in this [August 31] plan are still highly inflated and plaintiffs disagree with both defendants as to the use of used buses and the availability of various forms of transportation."

In addition to the questions of the cost and availability of transportation equipment, there are those who strongly argue that a mid-year implementation would grossly impair the ability of the Columbus school system to provide quality educational opportunities to elementary pupils. Plaintiffs vehemently disagree "with any suggestion that implementation be delayed again to September, 1978, for the additional reasons that the constitution requires an immediate remedy."

In considering these issues, one fact remains of paramount importance: constitutional rights have been, and are presently being, violated. The Court, therefore, is under a duty to redress these rights with all due dispatch. *Green v. County School Board*, 391 U.S. 430, 439 (1968). On the other hand the Court is well aware that a school desegregation remedy that becomes "so burdensome upon a school system as to impair its basic ability to provide the best possible educational opportunities, is no remedy at all." *Penick v. Columbus Board of Education*, 429 F. Supp. 229, 266 (S.D. Ohio 1977).

Recognizing these competing considerations, the Court finds that there are issues raised which necessitate that the Court hold further evidentiary hearings. The

Court has already heard volumes of evidence in this case and has considered numerous arguments of counsel. Therefore, the scope of the inquiry permitted at such hearings will be limited. The presentation of cumulative or extraneous evidence will not aid the Court's critical examination of these issues.

The Court will hear this case commencing on September 26, 1977, at 9:00 a.m. The scope of the hearing will be limited to:

1. The cost and availability of transportation equipment and related transportation facilities necessary for the safe and reliable implementation of the student reassignment component of the Columbus Board of Education's August 31, 1977, submission; and
2. An opportunity for the defendants to show cause why a further delay should be granted in the mid-year implementation phase of the remedy in this case.

The Court requests counsel to present concise (preferably expert) testimony directed toward matters not previously considered and decided by the Court. The Court will allow a maximum of four (4) days for the presentation of evidence and argument concerning the issues set forth herein.

It is so ORDERED.

ROBERT M. DUNCAN, JUDGE
United States District Court

No. 77-8347/8

United States Court of Appeals
FOR THE SIXTH CIRCUIT

GARY L. PENICK, et al.,
Plaintiffs-Respondents

v.

COLUMBUS BOARD OF
 EDUCATION, et al., (77-8347)

OHIO STATE BOARD OF
 EDUCATION, et al., (77-8348),
Defendants-Petitioners

BEFORE: EDWARDS, CELEBREZZE and ENGEL,
 Circuit Judges

ORDER
[Filed
October 3,
1977]

Both the Ohio State Board of Education and the City of Columbus, Ohio Board of Education have filed petitions for permission to appeal, pursuant to 28 U.S.C. § 1292(b), the district court's orders filed July 7, 1977 and July 29, 1977. The petitions also seek to have this Court stay any pupil reassignments pending disposition of these appeals, should permission be granted.

Upon consideration, it is ORDERED that the petitions be and they hereby are granted. Counsel for the petitioners shall file a brief and joint appendix not later than October 24, 1977; counsel for the respondents shall file their brief not later than November 18, 1977; any reply brief may be filed within seven (7) days thereafter.

Upon further consideration, the application for stay is denied.

The Clerk is directed to schedule these cases, together with the appeals in Nos. 77-3365/6, at the earliest practicable date after all briefs have been filed.

ENTERED BY ORDER OF THE COURT

JOHN P. HEHMAN, *Clerk*

NOTICE OF APPEAL

[Filed November 4, 1977]

[Caption Omitted in Printing]

Notice is hereby given that the defendants Columbus Board of Education and M. Steven Boley, Paul Langdon, Virginia Prentice and Marilyn Redden, Board members, and Joseph L. Davis, Superintendent of the Columbus Public Schools, hereby appeal to the United States Court of Appeals for the Sixth Circuit from the Judgment entered in this action on the 7th day of October, 1977, ordering the implementation of a system-wide desegregation remedy plan in September, 1978, denying the Columbus Board of Education's motion for a stay pending appeal, ordering the continuation of certain preparatory efforts, ordering the re-examination of the anticipated budget for the desegregation remedy, ordering the commencement of the bidding process for the acquisition of new school buses and related equipment necessary for a September 1978 implementation, and ordering the filing of periodic written reports with the Court.

This appeal is filed pursuant to 28 U.S.C. § 1292(a).

[Subscription Omitted in Printing]

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HELEN JENKINS DAVIS
 called as a witness on behalf of the
 Intervening Plaintiffs, being first
 duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. ATKINS:

[128] Q. [By Mr. Atkins] Would you state your full name and address for the record, please?

A. Mrs. Helen Jenkins Davis, 1100 East Broad Street, Columbus, Ohio.

Q. Now, Mrs. Davis, did you attend public schools in Columbus?

[129] A. Yes. I am a native of Columbus, Ohio, and attended all my education in Columbus.

Q. And you attended the Garfield Elementary School?

A. From the first grade through the eighth.

Q. And the Douglas Junior High School?

A. Ninth grade. It was the first year they put the ninth grade out of the regular high schools. One was at Mt. Vernon School, and one was at Douglas.

Q. Then from there you went to East High School?

A. I went to East for ten, eleven and twelve. They didn't call it that. They called it two, three and four then.

Q. And you graduated from East High School in what year, Mrs. Davis?

A. 1914.

[130] Q. And from East High School, you went to Teacher's Training School, did you not?

A. Yes, Columbus Normal School.

Q. Now, at that time, was the Columbus Normal School a part of the Columbus Public School System?

A. It was a part of the System. You had to go there. It was free, and you had to go there to become an elementary teacher.

Q. And how long were you at Columbus Normal?

A. Two years. It was a two-year course.

Q. So, in 1916, you graduated from Columbus Normal; is that correct?

A. Yes, that's right.

Q. And is it true that you had a rather high grade point average?

A. My grade average was 98.5 — .6, rather.

Q. 98.6 out of a hundred?

A. Yes. They gave us all our grades in all of the subjects and then gave us the average.

Q. Now, after graduation from Columbus Normal, did you make an effort to obtain a teaching position in the Columbus Public Schools?

A. Well, immediately upon graduation, I put an application in the Columbus System —

Q. And that —

[131] A. — and I — I waited eighteen months before I was hired.

[136] Q. Now, you were filling in the rest of the term for this teacher who had gotten married?

A. Yes.

Q. How long did you remain at Spring Street?

A. Two and a half years.

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[140] Q. Now, at the time you were teaching at Spring Street School, were there any black teachers in any other schools in the Columbus Public School System, as far as you know?

A. None but Champion Avenue. They took them out of the schools where they were before they built Champion and put them there, and they hired no more.

Q. There had been black teachers in other schools prior to the opening of Champion?

A. Yes, in the integrated schools.

Q. What schools were they?

A. Mound Street, Fieser and where the YMCA is, there was a school there. Of course, they tore that down. YMCA bought that. Years and years ago there was one on Spring Street, but I don't recall the name because it has been so long ago. My mother told me that.

Q. Now, did you know the teachers who had been [141] teaching at Mound Street?

A. Yes. Miss Baker who became principal when they built Champion and Miss Nell Moffitt who was also a teacher now at Mound Street, being an integrated school. Miss Baker was the eighth grade teacher, and Miss Moffitt was the sixth grade teacher. They took those two out and put those in Champion and didn't replace them. They hired no more black teachers.

Q. You mentioned there also had been black teachers at Fieser School?

A. Yes, and she was put in Champion. She was taken out and put in Champion.

Q. Do you remember who that teacher was?

A. Ranetta Monmouth. She married later, and her name was Morgan.

[142] Q. And the school that was located near where the Y was, was that the Front Street School?

A. Yes, that was Front Street School.

Q. Now, there were black teachers at that school?

A. There was one there. Her name was Celia Davis. I remember seeing her once, but she died years ago.

Q. And when Champion opened, this would have been around 1910.

A. Yes.

Q. Did Champion have an integrated student body, also, like Spring did?

A. No, all black, all black teachers and all black children. When you got there, there was never any openings because the teachers weren't old, too old — they weren't old enough to retire, and, of course, if you got married, you didn't have a job so they just stayed, and then that meant less openings for the younger colored girls coming out.

Q. So from 1910 until Champion opened, until 1918, Champion was the only school in which blacks were permitted to —

A. Yes, that's right, that was the only place I could go, because Miss Gule had already said that was the only place I could go in Columbus, and here I was for generations and her generations just came from Europe, and yet she's telling me there's no place for me in Columbus, Ohio.

[143] Q. Now, you mentioned that Champion was the only school where blacks were permitted to teach. I take it, then, that the only time a black was hired was when someone left Champion; would that be correct?

A. That's right. That's right.

Q. And in 1921, when you left Spring Street School to go to Champion, Champion was — what grades were taught there?

A. They had kindergarten through the eighth grade, and they had two white teachers in the kindergarten, because there weren't any colored trained to teach in Columbus. They were trained in the grades. And then, later, when a couple of colored girls took the training at Normal School, they were placed in there.

Q. Replaced the two white teachers?

A. Yes.

* * * * *

[144] Q. All right. Do you recall the closing of the Eastwood Elementary School during the time you were teaching at Champion?

[145] A. I certainly do. Those — some of those children were sent to me. I had fifty-two children in my classroom.

Q. You mean the children from Eastwood were re-assigned to Champion?

A. Yes, and we were overcrowded.

Q. Were these the black and the white children?

A. No, just — no whites, just blacks.

Q. Well, what happened to the white students who had been attending that school?

A. Well, they were sent over to Fair — over to some of the other schools.

Q. Do you remember what schools they were sent to?

A. It was — they went over on Fair Avenue.

Q. Fair Avenue School?

A. Yeah, Fair Avenue School.

Q. And that was a predominantly white school?

A. It was all white, yes.

Q. Majority white school. You say it was all white at that time?

A. Yes. I don't know of any colored that went there.

* * * * *

[147] Q. Let me ask you if you know, and if you don't, you may say so, if you know why it was reported that the Eastwood School was closed?

A. There were all white people living in that neighborhood, and they did not want colored children crossing Long to come over into their neighborhood.

Q. Was the Eastwood School torn down at the time it was closed?

A. Oh, no, it's still standing. It just closed from use not long ago. I even subbed over there.

[148] Q. You subbed there afterwards?

A. Yes, since I retired.

Q. Now, you mentioned that one of the effects of the closing of the Eastwood Elementary School was that some of the students, the black students, were reassigned to Champion and that you remember having —

A. Fifty-two children in my room.

Q. Where did you seat fifty-two children?

A. They put in an extra row of seats. There were eight. I had forty. They put eight more — eight more — another row of eight seats, and then I had four more, fifty-two sitting on the seats with no desks in front of them, the books beside them on the seat or on the floor.

Q. Were the classes in Champion while you were there larger or smaller or about the same size as the Spring Street when you taught there?

A. Oh, they were small — Spring Street was smaller.

Q. Champion classes were larger?

A. Yes. Twice a year we had to go to an art meeting or a music meeting or some other of the supervisors were called and they would ask us when they called the roll how many pupils we had. Champion Avenue and Pilgrim always had more than the white schools. They would have in the 30's, and we had in the 40's and 50's. Of course, they had to know how much material to send to us, and that's how I know [149] what the other schools had.

Q. Do you recall during the time you were at Champion ever having a white child in your class?

A. Never.

Q. How long were you at Champion, Mrs. Davis?

A. Seventeen years.

Q. From 1921 to 1938?

A. Yes.

Q. And during the time you were at Champion, do you recall the method by which textbooks and desks and other material got to Champion?

A. Oh, yes, I do. It was demoralizing. We got all the old books from the white schools and the old desks.

Q. You mean the used?

A. The used, and they had been all old. All summer — we had to turn our books in if they were worn out or poor. We sent our report in June.

In the fall, when we came back, our report had been filled but they were filled with old books.

Q. How do you know that?

A. In the back of the cover of all the books was a paper with the name of the book, the school, the date, the teacher's name and condition —

Q. I see.

A. — starting with new, good, fair, poor, worn out, [149A] and we got the good, fair and worn out, and they had been pasted and glued and it was really demoralizing.

[150] Q. Was this also the practice when you were at Spring Street School?

A. No.

Q. The books there were new?

A. We got new books. We never got the old books.

Q. And the desks, were they ever sent to Spring Street from the other schools?

A. No, we got desks that had been sanded, and you could see the initials that had been carved so deep. We got the old.

Q. That was at Champion Avenue?

A. We got the old desks. Even the teachers' desks were old.

* * * * *

[152] Q. Now, do you recall the old Children's Home on Sunbury Road?

A. Yes, I got the children when — they had to go to school, because there was no school there where the Children's Home was on Sunbury. The white children were sent to Shepard. The black children passed their neighborhood school and were sent to Champion and Pilgrim, because I had them.

Q. Now, what was the old Children's Home?

A. Well, that was an orphanage.

Q. All right. The white students, you say, were permitted to go to Shepard?

[153] A. Yes.

Q. Was that within walking distance?

A. Yes. They wouldn't have a colored child in that school.

Q. But there were black children in the old Children's Home?

A. Yes.

Q. How did they get to Champion or to Pilgrim?

A. They bussed them because it was too far to walk. They had them in a bus and took them in a bus.

[154] Q. Now, in 1937 and 1938 or around that period, a decision was made relative to the Champion and elementary schools. Do you recall the nature of the decision that was made at that point?

Q. About what?

A. About the Champion and elementary — Champion and Pilgrim Schools?

A. Oh, yes. They were going to make Champion an all junior high school.

Q. And up to that time, it had been a K through eighth?

A. Yes, yes, and then Pilgrim School was an integrated junior high.

Q. A seventh through ninth?

A. Yes.

Q. And what was to happen to —

A. They took us — they took the elementary teachers out of Champion and put us in Pilgrim School, making it an all black elementary school.

Q. Now, at this time, was Champion still an all black school?

A. Yes, it was still.

Q. So, now, Champion is an all black junior high school?

A. Yes.

Q. And its students were coming from Pilgrim, or were they coming from other schools as well, if you recall?

[155] A. I don't know whether — the blacks would have to go to Champion, but I don't know where the whites went.

Q. All right. Now, you left Champion, then, in 1938, and where did you go from there?

A. Well, we were assigned to — Pilgrim, an all black elementary school, which had been integrated, had been an integrated junior high.

Q. Prior to your leaving Champion, do you recall the American Addition area and where the children who lived in that area went to school?

A. Yes, I think it was two or three portables out there. The white children never went there.

Q. Never went to the American Addition?

A. They never went there. They were taken out and sent someplace else, either to Leonard Avenue School or Eleventh.

Q. So American Addition was —

A. All black, a segregated school.

Q. Well, now, there came a time when American Addition students were assigned to Champion; is that not correct?

A. When they go to the — I think they only had to the fourth grade there.

Q. And so they were then regularly —

A. Sent to Champion, yes.

Q. Was Champion their regular elementary school?

[156] A. Yes, they were sent there. They were bussed there.

Q. Now, do you recall, is the American Addition —

A. They had to pass Shepard School.

Q. I was going to ask you that. Is the American Addition contiguous to the Champion attendance area?

A. Well, they made it so. They made it that all their children there either had to come to Pilgrim or Champion. There was no place else where they would send them.

Q. Was the American School closer to Champion than it was to the Eleventh Avenue Junior High School, for instance?

A. I don't recall how far Eleventh is, but, you know —

Q. All right. Now, in 1938, you began teaching at Pilgrim; is that correct?

A. That's right.

Q. And this would have been what, in September of 1938?

A. September.

Q. And do you recall whether or not there were any white children within the Pilgrim attendance area?

A. Yes, right across the street. White families across the street, down the street and all the way down on Taylor Avenue and all of Greenway. Greenway, which is east of Taylor Avenue, was white because they had restrictive covenant on that street and they were just lower income white people.

* * * * *

[163] Q. How long did you teach at Pilgrim, Mrs. Davis?

A. Seventeen years there.

Q. During the 17 years you taught at Pilgrim, did you ever have a white child in your class?

A. Never. None were assigned there. They were always assigned someplace else.

Q. So for 17 years at Champion and for another 17 years at Pilgrim —

A. All black; all black.

* * * * *

[166] Q. Now, you said you retired in 1954. Did you have any subsequent involvement with the Columbus Public Schools after 1954?

A. Yes. I went to California and stayed for a while, and then I came back. My friends said they wanted me to sub in their rooms if they had to be absent because they wanted somebody experienced. So I applied like on Monday, and on Tuesday Miss Ryan had charge of choosing the substitutes. She called me, and she said, "You didn't think I was going to call you so soon, did you?" And I said, "No."

She said, "I am going to send you to Pilgrim." I said, "I live in the Shepard district. I can hear the children when they are on the school grounds." She never answered. I went to Pilgrim.

Then she would call me, but always to an all-black school. So one time she called me to go [167] down to Beck Street, way down behind Schottenstein's. I said, "I told you the first time you called me I live in the Shepard district." They had something going on between them. That principal and those teachers wanted no black face over in that building, and she would not send me over there. By that time, I was living in that district, and colored children were moving into the district.

Q. Into the Shepard district?

A. Yes. They even had colored children over there at that time. She would never send me over there.

I said, "I have had enough racism. I am going to quit."

Q. That was when, what year?

A. In the '60's; about '61 or something like that. I had all I could take.

.

[171] Q. Now, Mrs. Davis, I would like to ask you, if you can, to identify at each of several different periods the schools in which black teachers were permitted to teach. For instance, in 1910 you have indicated that there were black teachers, there had been black teachers prior to the opening of Champion at Mound, Front, Fieser, and I think you said perhaps Spring?

A. Yes.

Q. Now, in 1918 when you left or when you began at Spring, the only schools were Champion and Spring. Those were the only schools in which black teachers could teach; is that correct?

A. Yes.

Q. In 1921 when you left Spring, where could black teachers teach then?

A. Champion.

[172] Q. Was that the only school?

A. Yes. If you didn't teach there, you had no job.

Q. In 1938 when you left Champion, where could black teachers teach in the Columbus Public School System?

A. When I left Champion?

Q. Yes, when you left Champion?

A. Only Champion and Pilgrim.

Q. And in 1954 when you retired from the Columbus Public School System, where then could black teachers teach?

A. In '54, let me see. They were beginning to be put in Douglas and a few of the others like Felton. They were beginning to put one or two in some of those schools, but not predominantly.

Q. Champion was still a school in which blacks taught; is that right?

A. Yes.

Q. And Pilgrim was also a school?

A. Yes.

Q. What about Leonard Avenue? Did blacks teach in Leonard Avenue in 1954?

A. If they had done away with the schools out there where they had the portables.

[173] Q. American Addition?

A. American Addition, because they were transferred.

Q. To Leonard?

A. Yes.

Q. What about Mt. Vernon, were blacks able to teach then in Mt. Vernon, 1954?

A. That was an all-black school.

Q. So blacks were able to teach?

A. Oh, yes.

Q. What about Kent School, were blacks permitted to teach at the Kent School?

A. When I subbed there, they were.

Q. But not in 1954?

A. I don't know because I never got down that way.

Q. What about Main Street?

A. I really don't know because I never—I wasn't interested, only in the school where I was teaching.

Q. Do you know whether blacks were permitted to teach in the Reeb School?

A. Not then, no.

Q. Not in 1954?

A. No.

[174] Q. What about Eastwood, the school that had been closed in 1932 and then reopened subsequently; were blacks permitted to teach at Eastwood?

A. When I subbed, there were black and white.

Q. That was in 1958-'59?

A. Yes.

Q. Do you know whether in 1954 a black teacher would have been permitted to teach?

A. No, I don't know.

* * * * *

CROSS EXAMINATION BY MR. PORTER

* * * * *

[205] Q. [By Mr. Porter] You were hired at the end of about 18 months?

A. Eighteen months, yes.

Q. And then, at that time, you taught in a white school. I think you referred to it as the Spring Street School; is that correct?

A. That's right, yes.

Q. And the Spring Street was both black and white?

A. About — about 2/5 black when I ended.

Q. And from there you went to Champion and then to Pilgrim and then retired while you were at Pilgrim; am I correct about this?

A. Uh-huh.

Q. Is that right?

A. That's right.

Q. Now, the students that attended Champion while you were a teacher there I believe you said came primarily, or came from the East end of the city; is that right?

A. Uh-huh.

Q. They would have been from a specific geographical [206] area; am I correct?

A. That's the only place they were allowed to live.

Q. All right. So that the school itself reflected, if I may, the housing patterns from the area from which it drew; is that right?

A. That's the way it was designed.

Q. Thank you. Now, would it not be correct that through your years as a teacher in the Columbus Public School System, and let's say until the time of your retirement in 1954 — was it '54?

A. '54.

Q. All right. — until the time of your retirement in 1954, it was the practice of the Columbus Public School System to have school attendance zones; is that right, to have attendance zones —

A. They were supposed to have them, yes, but any white child that wanted to leave could leave.

Q. If I understood what you're saying, this was through some kind of an optional zone; is that right?

A. For white children, yes.

Q. Right. That's your testimony?

A. Yes.

Q. All right. But that the schools themselves had an attendance area; is that right?

A. They have an attendance area, yes —

[207] Q. Okay.

A. — for a neighborhood school.

Q. And they were neighborhood schools, were they not?

A. Yes.

* * * * *

WILLIAM LAMSON

called as a witness on behalf of the
Intervening Plaintiffs, being first
duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. LUCAS

[271] Q. [By Mr. Lucas] State your full name and occupation, please.

A. William Lamson. That is spelled L-a-m-s-o-n. I am working as a forensic demographer primarily for the NAACP.

* * * *

[276] Q. [By Mr. Lucas] Mr. Lamson, in preparing the census data and transferring it to a map, what kind of base data do you use first? What do you look at?

A. I take the 1970 or the most current census, U. S. Census, and look at the individual percentage black per block, block by block throughout the city.

Q. All right, the Census Bureau also reports that information on the basis of census tracts, does it not?

A. Yes. It is essentially a compilation of each tract as composed of a number of blocks, blocks being city blocks essentially.

* * * *

[278] Q. Is block data generally considered a finer and therefore more accurate measure?

A. Generally, yes.

Q. Now, you have a legend on this map. Would you explain to the Court and counsel what the legend means and how you arrived at it?

A. All right. The color breakdown of the [279] legend is that all areas indicated as uncolored or white represent 0 to 9.9 percent black in their racial composition.

Q. That information comes from the U. S. Census?

A. That is right.

Q. That is the 1970 Census we are using on that map?

A. That's right, but it is my color scheme.

Green represents racial percentages of from 10 to 27.9. Blue represents racial compositions, general population racial composition of from 28 to 49.9 percent black. Orange represents from 50 to 89.9 percent black, and red represents from 90 to 100 percent black in racial composition.

The way I come to this, I draw a graph of the occurrences of blackness block by block in the city, and I start

in from 0 to 100 percent black, and I see the number of occurrences. What I get is an inverted bell curve with the highest number of occurrences at the opposite ends, either at 0 percent black or 100 percent black, and the curve is essentially a trough.

The choosing of the 50 percent line is because in every case I have ever been in, it seems to end being important. Everybody want to know [280] where 50 percent is. I just take that as an arbitrary 50 percent, and the blue is under 50 percent immediately, and the orange is immediately over 50 percent. Other than that, I look for the natural apparent cutoffs in the data as they are arrayed across this 0-to-100 percent grade.

[281] Q. And based upon the distribution as it occurs from the census data?

A. Right, so at 9.9 or 10, the really steep downslope from 0 percent blacks, it more or less bottoms out at around 10 occurrences, 5 to 10 occurrences. Then it maintains a rather uniform posture until it gets to 89, between 89 and 90, and then it again assumes a steep curve up to 100 percent black.

* * * *

[283] Q. Mr. Lamson, if you would step to the maps, we have an overlay. Would you tell us if that overlay has an exhibit number from the elementary?

A. Yes, the exhibit number is 278.

Q. And that's the elementary boundaries for 75-76; is that correct?

[284] A. That's correct.

Q. Can you tell me what you did in putting the information that appears in that overlay on that piece of paper?

A. All right. For each one of the schools shown on this overlay, there is a single sheet of paper and that sheet of paper has a verbal and a graphic description of the individual elementary school on it. I read the description,

the written description, compare it with the graphic description and then represent it on this overlay.

After doing that approximately 150 times, you arrive at the — this representation of the school system and its elementary attendance zones and school locations.

* * * * *

BARBEE WILLIAM DURHAM
called as a witness on behalf of the
Intervening Plaintiffs, being first duly sworn,
was examined and testified as follows:

DIRECT EXAMINATION BY MR. LUCAS:

[354] Q. [By Mr. Lucas] Please give us your full name and you occupation, sir?

A. Barbee William Durham. I'm a laboratory supervisor.

Q. And where are you employed, sir?

A. Ohio State University.

* * * * *

[355] Q. All right. Can you tell us first when the Vanguard League was formed?

A. 1940.

Q. And what was its most active period?

A. From that period on, from 1940 until about 1945.

Q. All right. Did you hold a position, office in that organization?

A. I did.

Q. And what positions did you hold?

A. I was chairman of the education committee and vice president at one time.

Q. Did you hold any positions in the NAACP?

A. I did.

Q. And what positions did you hold, and can you tell [356] us your term?

A. For several years, I served as chairman of the education committee, and for 15 years I served as the

executive director of the Columbus branch, and I also served as a member of the board of the state in NAACP.

* * * * *

[363] Q. [By Mr. Lucas] Did you start this before the Vanguard League? Did it start in about 1940 at the same time the League was founded?

A. About 1941, '40 to '41, the Education Committee of the Vanguard League on a number of occasions attempted to persuade the Board of Education, the administration, to hire, place and promote school personnel on the basis of qualification rather than race. It was a policy of the administration to hire, place and promote on the basis of race.

An example of this is what happened at one of the schools with which we were particularly concerned. It was Felton School. Felton School was changed from an all-white faculty to an all-Negro faculty, and when the Vanguard League learned that this was going to happen, the League asked the Board and the administration to not do this, to have an integrated staff at Felton, but this was done. During one change, 13 teachers and principal, all white, were exchanged for 13 teachers and the principal, all Negro.

* * * * *

[365] Q. Were there certain schools where there were only black teachers at this time?

A. Yes.

Q. What schools were those?

A. Garfield, Mt. Vernon, Felton after the change, Champion and Pilgrim.

Q. Are any of those schools still around today?

A. Yes.

Q. Are they still black schools?

A. Yes. Mt. Vernon, the name of Mt. Vernon has been changed to Ohio Avenue School.

Q. I am sorry, to what?

A. The name of Mt. Vernon has been changed to Ohio Avenue School, I believe, but they are all still black schools.

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[369] Q. I show you Plaintiffs' Exhibit 376, a booklet entitled "Which September" and ask you if this is the booklet published by the Vanguard League?

A. It is.

.

[375] Q. Would you read the section beginning, "The apparent intention and policy of the Board"?

[376] A. The Vanguard League is well justified in stating the apparent intention of the Board of Education to perpetuate and expand the segregated school system. This conclusion is substantiated by the past performance of the Board and recent evidence secured by the League. The evidence is:

1. With few exceptions, white families residing within the Felton school district send their children to Milo, East Columbus, Douglas and Shepard Schools;

2. Two years before Felton was made into a colored school, the white families in that district were informed of the impending change and were told that they might send their children to other schools. The same thing was done when Garfield was made into a colored school;

3. Children of white families that move into colored districts are transferred by school officials to white schools instead of to the colored school, the one to which they would normally be sent;

4. The white families residing within the colored school districts do not find it necessary to get the required permission to send their children to a school outside of the district. On the other hand, it is almost impossible for colored families to get permission to send their children to schools in other districts;

5. School districts are established in such a [377] manner that white families living near colored schools will not be in the colored school district. The area in the vicinity of Pilgrim School embracing Richmond, Parkwood, and parts of Greenway, Clifton, Woodland and Granville Streets is an excellent example of such gerrymandering. A part of Greenway is only one block from Pilgrim School, however, the children who live there are in Fair Avenue School district twelve and one-half blocks away.

Q. Would you go on?

A. A more striking example of such gerrymandering is Taylor and Woodland Avenues between Long Street and Greenway. Here we find school districts skipping about as capriciously as a young child at play. The west side of Taylor Avenue, colored residence is in Pilgrim Elementary district and Champion Junior High. The east side of Taylor, white families is in Fair Avenue Elementary district and Franklin Junior High. Both sides of Woodland Avenue between Long and Greenway are occupied by white families and are therefor in the Fair Avenue-Franklin district. Both sides of this same street between 340 and 500 are occupied by colored families and in the — are in the Pilgrim-Champion or colored school district. White families occupy the residences between 500 and 940, and as you would expect, the white family — the white school district of Shepard and Franklin applies;

.

[380] Q. Mr. Durham, you have written I guess over the years hundreds and hundreds of letters to individuals and newspapers concerning problems of race in this community. Is that a fair statement?

A. Yes.

Q. Have you addressed yourself to the issue of school construction in Columbus?

A. Yes, I have.

Q. Let me show you a series of documents which have previously been marked as Exhibits.

MR. LUCAS: May I stand by the witness, Your Honor?

THE COURT: Yes.

Q. (By Mr. Lucas) The first document is Plaintiffs' Exhibit 361, and I ask you if this is a letter you furnished to me?

A. Yes.

Q. Who is it addressed to?

A. Attorney Donald E. Calhoun, President of the Columbus Board of Education.

Q. What is the date?

A. August 24, 1970.

Q. And the letter is from you; is that correct?

A. Yes.

Q. If you will, would you read the first two paragraphs of the letter?

[381] A. "Dear Mr. Calhoun: I note in the press that the Columbus Board of Education has purchased an elementary school site in the Scarborough community. This community is to have 376 townhouses and is one of the sections of the larger development of Walnut Hills which is to total 3,500 to 4,000 rental and condominium units.

"I should like to know what consideration the Board has given to the possibility of this school being one from which Negroes will be excluded by virtue of their being excluded from the community as a result of racially discriminatory practices in spite of laws that now exist?"

Q. All right, did you — perhaps you should read the remainder.

A. "It is my feeling that if it has not already been done so, the Board of Education ought to inquire of the developers their intentions in this area. Will Negroes have the same opportunity to obtain housing in this new development as other citizens? I feel this way because if the

Board is going to purchase land in a self-contained community, thereby furnishing the developers with one of the necessary factors to state in their promotion that this is to be self-contained, then the Board has an obligation to make every effort to assure that this community will be open to all on an equal basis. [382] "I would appreciate hearing from you at your earliest convenience."

Q. All right, and the date of the letter is August 24th; is that correct?

A. Yes.

Q. Did you receive a reply?

A. I did.

Q. I show you what has been marked as Plaintiffs' Exhibit 362 and ask you if you can identify it?

A. Yes. This is a response from Mr. Calhoun.

Q. And he simply acknowledges your letter and indicates he will attempt to become informed on the matter; is that correct?

A. Yes.

Q. I show you another letter marked for identification Plaintiffs' Exhibit 366 bearing the date October 4, 1970. Is this letter also addressed to Mr. Calhoun?

A. It is.

Q. Does it refer to another development area?

A. Yes.

Q. What area is that?

A. Evergreen on the Commons.

Q. That is a \$20 million apartment complex?

A. Yes.

Q. How many townhouses and apartment units?

[383] A. 350 townhouses and apartment units.

Q. Do you refer in this letter to your letter of August 24?

A. Yes. Would you like for me to read this letter?

Q. Well, let me see. I don't want you to duplicate anything.

This letter is essentially the same inquiry you made with respect to the other community; is that correct?

A. Yes.

Q. I will show you a letter dated October 6th from Mr. Calhoun marked for identification Plaintiffs' Exhibit 364 and ask you to read that letter.

A. "Dear Mr. Durham: I wish to acknowledge your letter of October 4, 1970. I have no personal knowledge of this. I have sent a copy of your letter to all Board members and will ask Mr. Ramsey, Chairman of our Building Committee, to check into it.

"As to your letter of August 24, I requested a reply from the administration. When they gave it to me, I was not satisfied with it. I showed their comments to other Board members, and they did not feel that it was adequately responsive to your inquiries. Thereupon, I have asked Mr. Ramsey to work on an investigation. I expect soon to have a response for you based on his investigation.

"Yours very truly, Donald E. Calhoun."

[384] Q. All right, did you write him again in March, 1971?

A. I did.

Q. And the date is March 13?

A. Yes.

Q. And that is to Mr. Calhoun?

A. Yes.

Q. Would you read that letter, please?

A. "Dear Mr. Calhoun: I wish to call your attention to an announcement of a new housing and shopping area planned for New Albany. Included in this development is an elementary school and neighborhood park which would occupy 11.5 acres, 10 of which are owned by the Plain Local School Board. You may recall my concern about this pattern as evidenced in my letters of August 24 and October 4, a pattern which indicates possibly co-operation between real estate developers and Boards of Education or their agents.

"I am very much concerned about this because it enables developers to more easily control the racial makeup of the school since the school became a part of the deal which they, the developers, can offer prospects.

"I have not heard from you since your letter of October 6, and I am wondering if Mr. Ramsey completed the investigation you requested of him. Might I hear from you at your earliest convenience?"

[385] Q. An I believe you heard from him on March 23, 1971, did you not?

A. I did.

Q. I show you now Plaintiffs' Exhibit 366, a letter to you from Mr. Calhoun. Would you read that letter, please.

A. Dear Mr. Durham:

I spoke to Mr. Ramsey recently concerning your unanswered inquiries. He says that he looked, questioned and watched the development of sites selection and school location planning but has found no indication that the staff has been subservient to developers. He says that sites are selected for new schools through consultation with the City Planning Department whereby areas for residential development are indicated. By this process of identification, we did, when we had the money, purchase a school site long before it developed and before the developers had acquired the land.

Q. Let's stop right there. The areas you had written him about were areas that had already been announced for development and the announcements indicated that there was a school site already selected; is that correct?

A. Right.

Q. And this letter indicates that the Board of Education, before there is a development, is purchasing sites; [386] is that correct?

A. Right.

Q. And before there's any development planned, according to this letter?

A. Yes.

Q. All right. Go on.

A. This type of planning is, of course, based on providing a school where the population needs require a school. Mr. Ramsey recognizes that developers have exploited the fact that a school will be located nearby in their advertisements to appeal to buyers. In this respect, we are much like sewer and water being available.

It has been suggested that developers sign an agreement in advance that their project will be open to all people. We believe in this and believe that it is something that the City of Columbus could enforce. This is because all the plans, zoning, building, sewer and water permits are controlled by the City.

If an agreement were violated, why won't it be possible for the City to cut off the services that we granted in reliance upon the agreement? Specifically, you asked about Green Commons and Scarborough Community. Mr. Ramsey and I were both advised that in each of these instances the school site need was identified by the City Planning Commission and we acted to acquire or protect a [387] suitable school site before area development plans were submitted. The Planning Commission's staffs resolved all the proposals, which include accommodation of school sites.

Yours very truly,
Donald E. Calhoun.

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[445] CROSS-EXAMINATION BY MR. PORTER:

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[452] Q. The point that I wish to make and wish to discuss with you just a little bit, Mr. Durham, is this, that it is my understanding from what you have said and written over the years — and you correct me, please — that you consider probably the single most significant factor

in the dealing with racially imbalanced schools is the lack of open housing; isn't that true?

[453] A. This is sort of a chicken and egg situation. If the schools make a purchase of land even before developers get into it, the schools have taken the first step.

Secondly, there are many occasions where schools boards of education administrators work in conjunction with the development of new areas. This was the burden of my letter to Mr. Calhoun.

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CLARENCE LUMPKIN

called as a witness on behalf of the
Plaintiffs, having been first
duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. ATKINS

[478A] Q. [By Mr. Atkins] Would you give your name and address for the record, please?

A. My name is Clarence Lumpkin, I live at 1362 East 20th Avenue, Columbus, Ohio.

• • • • •

[488] Q. I show you now what has been marked Plaintiffs' Exhibit 198 and ask that you take a look at it, please. Do you recognize that document, sir?

A. Yes, sir.

Q. And what is it?

A. This is an official press release issued by the NAACP.

Q. What date?

A. June 5, 1967.

Q. And at the time this press release was issued, were you still co-chairman of the NAACP's Education Committee?

A. Yes, sir.

Q. Would you read the press release, please, Mr. Lumpkin?

A. To all Press Media for Release June 5, 1967:

NAACP announced today that it would request action at the Tuesday, June 6 Board of Education Meeting on the suggestions and questions made by the NAACP Urban League and numerous neighborhood clubs and individual parents. "After a year and a half of discussions of the damages done to children by segregated schools, it is time that the School Board did something for a change," commented William J. Davis, Legal Redress Chairman of the branch office, Columbus Branch.

The Columbus NAACP also released two resolutions [489] by its Executive Board demanding the release of the achievement test scores and the termination of bussing to perpetuate school segregation and cover planning mistakes by school officials.

Q. Now, the first resolution contained in this press release I take it was a resolution adopted by the Columbus NAACP; is that correct?

A. That is correct.

Q. As was the case with the second resolution?

A. That is correct.

Q. So this represented the official position of the Columbus NAACP in 1967 in June; is that right?

A. Yes, sir.

Q. Would you read Resolution No. 1?

A. Resolution 1: The Executive Board of the Columbus NAACP demanded that the Board of Education release to parents and civic organization the results of standardized tests to all Columbus children during grade school.

The Executive Board further demands that nationally standardized exams be required through the twelfth grade. These tests are essential in those inner city schools where previous tests indicate that children are being irreparably damaged by inferior segregated schools.

[490] Q. And would you read Resolution No. 2?

A. Resolution No. 2: The Executive Board of the Columbus NAACP demands that the Board of Education stop busing Negro children to maintain school segregation and to cover up failures to build adequate facilities. Columbus spent over half a million dollars last year in busing. Negro children were among the main victims. Gladstone Elementary School is a well-known example of busing Negro children to cover up the failure of the school board to correct errors in the building and location of schools. The first year the school was opened, there was no space for the sixth grade. This year, after repeated complaints of parents about several rooms with more than one class, school officials saw the problem. They bused out the kindergarten students.

Negro parents know that school boundaries.

Q. I think there is an "a" missing, school boundaries.

A. All school boundaries are carefully redesigned to maintain and increase segregation in our schools. These parents also know that bussing is a glaring example — these parents also know that bussing is used where necessary to keep Negro children out of primarily white schools.

As a glaring example, school officials admitted last fall to the Council on Intercultural Education that [491] children were being bused from the other side of the Alum Crest School district, 80-percent Negro, to Molar School, 2-percent Negro. One official, after saying that it was temporary — I am sorry. One official, after saying that it was a temporary measure, admitted that the children had been bused ever since Alum Crest School was built.

Clearly the Board of Education is against bussing only when they want to maintain segregation. The NAACP and Negro parents will regain their faith in the school board only when they see action, not just words.

* * * * *

[493] Q. Do you remember whether, in response to either Resolution I or Resolution II, the Columbus Board

invited the NAACP's Education Committee members, of co-chairman of the NAACP's Education Committee to come and meet with it for the purpose of discussing these resolutions.

Q. Was such a meeting requested by the Columbus Board?

A. I do not recall a specific meeting being set up for that particular purpose. There was several meetings over a period of years held with the Board of Education. I cannot say that these resolutions was not discussed.

[494] I am sure that these particular resolutions was presented to the Board. Whether or not, or when, if a specific meeting was called to discuss these resolutions, I do not recall, sir.

Q. I show you now what has been marked previously as Plaintiffs' Exhibit 199 and ask that you examine it.

Do you recognize this document, Mr. Lumpkin?

A. Yes, sir.

Q. Would you identify it, please?

A. This is a press release issued by the Education Committee of the Columbus Branch of the National Association for the Advancement of Colored People.

Q. What date was on this document?

A. June 20, 1967.

Q. At that time were you still co-chairman of the NAACP's Education Committee?

A. Yes, sir.

Q. Was this press release, in addition to being released to the press, sent to the Columbus Board of Education?

A. Yes, sir.

* * * * *

[496] Q. Were any boundaries changed as a result of the recommendation from the NAACP that boundaries be changed rather than setting up a program of open enrollment as I understand this release?

A. Some boundaries was changed, but not in accordance with our recommendation. Boundaries was changed at Gladstone Elementary School, for an example, but this was not in accordance to our recommendation.

Q. In what way did it differ from the recommendation made by the NAACP on June 20, 1967?

A. The intent of the recommendation-resolution was to change boundaries in order to bring about a better racial composition or racial balance in the public school system throughout the City of Columbus, not to change boundaries; to restrict, to continue or to perpetuate the racial isolation in the Columbus public schools.

[497] Gladstone was built and then Hamilton Elementary School was built. There was — Attendance pattern then was changed. Gladstone boundary children came from far west of Cleveland Avenue to Gladstone Elementary School, and when Hudson Elementary School was built, then some of the children that had been attending Gladstone, which was — I don't know — probably at that time 70, maybe 80 percent black, some of them then was shifted to Hudson Elementary School, which I think was either predominant black or very rapidly became black.

There were no children brought in from other predominant white schools into Gladstone or to 11th Avenue, Windsor Terrace, what-have-you, sir.

Q. So far as you could see, the effect of the boundary changes at Gladstone, construction of Gladstone, the boundary changes there, and the attendance boundaries drawn for, I believe you said Hudson? —

A. Yes, sir.

Q. — and Hamilton Schools, had a segregative effect rather than an integrative effect as recommended; is that correct?

A. That's my opinion.

Q. Can you recall any instances in which the School Board, either in response to the NAACP, or on its own

initiative, changed boundaries for the purpose of effecting integration?

[498] A. I don't know of any, sir.

* * * *

[504] Q. I show you what has been marked previously, Mr. Lumpkin, as Plaintiffs' Exhibit 352 and ask that you examine it, please. Do you recognize this document, Mr. Lumpkin?

A. Yes, sir.

Q. Would you identify it, please?

A. Subject of this document is "Racial Segregation In The Columbus Public Schools." This is a position paper presented to the Council on Intercultural Education by the Columbus, Ohio, National Association for the Advancement of Colored People, August 10, 1966, and this paper was prepared by the Education Committee of the NAACP, and this was — this was a paper that consisted of statistics and data that was compiled for the presentation to the Columbus Public School System on desegregation of the Columbus Public Schools, various plans, et cetera.

Q. Now, what was the Council on Intercultural Education, if you can recall?

A. This was a council, a group made up of various community organizations of which NAACP, Urban League, Civil Organization and interested and concerned citizens and parents.

Q. Now, do you know whether or not there was any issue representation on this council from the Columbus Public School System?

A. I believe there were -- there was a liason person [505] or persons on this committee. I know we met with several -- several occasions with administrators, staff persons. I don't know if Mister -- what was his name -- Davis -- what's Mr. Davis' first name? Joe Davis? Joe Davis?

Q. Joseph?

A. Joe Davis, I believe. Mr. Joseph Davis and the Superintendent in charge of buildings, Mr. Warren Beers, I think, acted as a liaison person. There could have been others.

Q. Now, in answer to previous exchanges between Plaintiffs and the Columbus Defendants it has been acknowledged that this particular document was received by the Board, and I want to call your attention to particular sections of it and ask you a couple of questions about it. If you'll look at page 3, under "Recommendations," it says, No. 1, desegregation.

A. That's right.

Q. Would you read that particular part of that recommendation?

A. "The Columbus NAACP proposes that a combination of the Princeton pairings and redistricting be applied to eliminate racial imbalance where school districts in the same area have widely dispar --" Hmm -- "percentages of Negroes. The Princeton Plan should be applied in those cases where two school districts could be combined to provide racial [506] balance and redistricting should be applied. Where there are three or more, districts must be combined to meet this necessity. The possibilities mentioned below pinpoint which schools fall into these categories and may serve as a point of departure. We realize that many other factors must be considered in the final location of school district boundaries but racial balance must be a requirement. Appendix 3 contains appropriate definitions and descriptions relative to our usage of certain terms in connection with desegregation."

Q. Now, on the next page, page 4, the indication is that in this series of recommendations, as to the first one, the Princeton Plan pairing concept, some 16 schools were mentioned in which Princeton Plan pairing could be used to achieve, as called here, a balanced distribution of Negro

children. Do you recall whether, with respect to any of these recommendations, there was either action by the Columbus Board or a response as to why action was not taken?

A. I do not recall, sir, a response as to any action taken on the Princeton Plan upon the recommendation coming from the — the Committee. No, I do not recall this type of plan being implemented or receiving written communication that it would be implemented.

Q. Let me call your attention specifically to No. 1 on [506A] that list of proposed pairings. It mentions East Columbus, which in that year this says had an enrollment of 606, 39 percent Negro, and Broadleigh which had an enrollment of 447 with a 0.2 percent Negro enrollment should be paired, giving two racially balanced schools of 22 and a half percent Negro. Do you know where those schools are?

[507] A. Yes. East Columbus and Broadleigh, that is, do I know what section of the city they are geographically located in?

Q. Yes, my question is, as far as you can recall, Mr. Lumpkin, were these contiguous school attendance areas?

A. Yes.

Q. Now, would that be true then of each of the other seven pairings mentioned on this page?

A. Yes, sir. As I recall, as we went over the maps and the racial composition of the schools, we arrived at the decision that these schools could be — the Princeton Plan could be implemented here, sir.

• • • • •

[510] Q. Now, a second part of that recommendation on desegregation had to do with redistricting. It says here that — the recommendation was that redistricting be used according to the following six plans to restore racial balance in 21 schools. As far as you can recall, Mr. Lumpkin,

were any of the boundary changes proposed here involving these 21 schools, were any of those boundary changes in fact effected by the Columbus Board?

A. As far as I can recall, no, sir. There was one school, and I don't recall the name, in the far south end, but, as far as I can recall, no, sir, none of these.

Q. Now, at the end of that particular section on redistricting, it says on this section on desegregation, and I am quoting: "We propose open enrollment financed by the school district to begin desegregation in the remaining elementary schools. The NAACP will offer plans in the future to desegregate junior high and high schools."

[511] As far as you can recall, were there similar plans for desegregation offered having to do with junior high and high schools?

A. Yes, sir, there were plans offered. I can't recall at this point, without referring to some of my notes at home, what these plans were, sir.

Q. Do you recall, Mr. Lumpkin, attending any meetings of the Columbus Board during the period 1965 to 1970? Did you attend any of the Board meetings?

A. Yes, sir.

Q. Did you attend many of the Board meetings?

A. Yes, sir.

Q. At any of the Board meetings that you attended during that five, four or five-year period, were any of the techniques for desegregation which were mentioned here that we have discussed this afternoon, were any of those discussed by the Board?

A. In an open forum?

Q. Yes.

A. They were discussed when we brought forth — some time at an open regular Board meeting we presented these plans, and they were discussed by Board members, yes.

Q. So it would be safe to say, would it not, that the Board was aware of these techniques of desegregation?

A. Yes, sir.

.

[543] Q. Mr. Lumpkin, you indicated that you were at one point I believe you said President of the Gladstone Parent-Teacher Association; is that correct?

A. Yes, sir.

Q. Prior to the construction of the Gladstone School, did you and others with whom you were acquainted oppose the [544] construction of that school?

A. Yes, sir, we did.

Q. Was the grounds of your opposition the size of the school, the location of it, what? What were the grounds for your opposition, if you can recall?

A. My opposition to the construction of the Gladstone Elementary School was because, after looking at the architect — after looking at the drawing and the statistics and the population density up there, that this school would be inadequate, that it would be too small to serve the children that would be required to attend that school.

I told them that they should acquire additional property and build a larger school because I did not believe that the school would be large enough for the — to enroll all of the students that would be required to attend that particular school, sir.

Q. When you say it wouldn't be large enough to enroll all the students who would be required to attend it, were you referring to the need to provide for integration at the Gladstone School?

A. Both, sir. At that particular time, the racial composition, the racial makeup of the community was changing. The population was increasing. I saw this school as being a building, another school building, that would be totally black or predominantly black within a very short

period of time, [545] maybe less than two years, that it would be predominantly black.

In fact, I don't recall the exact percentage, but I believe it opened up in the neighborhood of about 75 or 70 percent black when it was opened up, and I saw this being another totally black school, in addition to not being large enough to house the children that was there.

[546] Q. Now, when you say you opposed the Board's plans for the construction of the Gladstone School, do you mean that you by some means communicated that opposition to the Board of Education or to the Superintendent or to the staff?

A. Yes, sir. I communicated this information to the Board. I had numerous conversation with Mr. Beers, I think, whom at that —

Q. Would that be Warren Beers?

A. Yes, sir, who I think was in charge of building or building constructions and, et cetera. I had many conversations with him. I also appeared before the Board of Education trying to convince them that this building was inadequate, sir.

Q. When the school opened was it, in fact, in addition to being, as you indicated, a predominantly black school as you predicted, was it also too small, as you had also predicted?

A. Yes, sir, it was. The first year it opened, kindergarten and sixth grade and I believe the first grade was unable to attend that school. We had also provided in that building at that time two classes in one classroom. For example, you may have first and second grade in one classroom. And my child, my son, was bussed to Duxberry Elementary School from the first year that it opened, sir.

Q. Did the Board take any action or make any effort, [547] as far as you can recall, to provide for this integration at the Gladstone School?

A. In my opinion, no, sir.

Q. When the Gladstone School opened, you indicated that at least some of the children were being transported to the Duxberry Elementary School because of lack of space. Did there come a time when the Gladstone PTA, of which you were president, requested the Board of Education or the Superintendent and the staff to make provisions for integrating the . . . further integrating the Gladstone School?

A. Yes, sir.

[548] Q. Did you make specific recommendations of how or what alternative ways might be pursued to enhance integration at Gladstone?

A. Yes, sir. I recall making a recommendation that there were other schools in the area that children could be attending if the boundary lines were — was redrawn. For example, there was Linden Elementary School, which was predominant white. At that particular time, Duxberry, I believe, was predominant white. McGuffey was predominant white. So there were other schools, that by drawing or redrawing the attendance, that we could have changed the racial balance or the composition of any of the schools in that area, sir.

Q. Did the Board or the Superintendent, in fact, change the boundaries of the Gladstone attendance area to bring about this desegregation you had recommended?

A. No, sir.

* * * * *

[554] Q. You indicated, Mr. Lumpkin, that you have served as [555] a member of the Urban League's Education Committee.

A. Yes, sir.

Q. Approximately when did that service begin, if you can recall?

A. Probably in the year of '65. I'm not exact sure of the year. It may have been '65 or '64. It's been a long time, sir. I'm not exactly sure, but I believe it was '64, '65.

Q. And how long did you serve on the Urban League's Education Committee, sir?

A. Up to the present, I'm still a member of the Urban League Education Committee, sir.

Q. And during the time that you served on the Urban League's Education Committee, do you recall the Urban League ever recommending to the Board of Education that it take action to desegregate schools in Columbus?

A. Yes, sir. In fact, the Urban League undertook a study of the Columbus Public Schools System and compiled a book, document, which we presented to the administration, the Board of Education, in which there were many meetings held around the recommendation of the Columbus Urban League proposal.

Q. Just a second.

Were the recommendations made by the Columbus Urban League's Education Committee, of which you were a member, [556] essentially the same as or different from the recommendations made by the NAACP's Education Committee of which you were co-chairman?

A. No, sir. They were very similar. In fact, we collaborated on most of all of them. We all was in support of them, sir.

Q. And during the time that you served on the Urban League's Education Committee, did you have occasion to accompany the members, other members of the Committee to meetings with staff members, employees of the Columbus Board of Education?

A. Yes, sir.

Q. Did you also have occasion to accompany them on meetings — to meetings with members of the Columbus Board?

A. Yes, sir.

Q. And during the course of these meetings, were the recommendations for desegregation to which you have referred discussed directly with the Columbus Board members and/or Columbus Board employees?

A. Yes, sir.

Q. Now, can you recall, Mr. Lumpkin, whether or not the Board response to the recommendations of the Urban League, as far as integration is concerned, did it differ any from the response of the NAACP's recommendation?

A. There was no difference in the response. If you're [557] referring to implementation of any of the recommendations, there was no difference in the response, sir.

* * * * *

CROSS-EXAMINATION BY MR. PORTER

* * * * *

[582] Q. [By Mr. Porter] It was your opinion, was it not, in June of 1967, your opinion in June of 1967 that the Columbus Public School System had inadequate physical facilities, wasn't [583] that true?

A. That is true.

Q. And that it needed more physical facilities in order to better provide education to the Negro population; wasn't that true?

[584] A. Not only to the Negro population, but to the population as a whole, sir.

Q. Thank you very much. And it was your opinion at that time and it was contained implicit in the news release that the way to accomplish that was for the Columbus Public School System to build schools; isn't that right?

A. That is not completely correct, sir.

Q. All right then, straighten it out.

A. To build schools, but not build them in a manner to further segregate the Columbus School System or to perpetuate segregation.

Q. Thank you.

A. I think we presented plans showing schools could be built in a manner wherein they would not perpetuate the segregation in the Columbus Public School System.

Q. Where are those plans?

A. I don't recall now, sir, where they are. I am sure that — it's been a long time ago, and they may be contained in some of these documents here of building schools, the campus type, et cetera.

Q. Thank you. Would you explain, please, not — would you explain, please, the concept that you felt was presented to the school system that they should follow in the construction of buildings?

[585] MR. ATKINS: Your Honor, I am going to object to the question in that form because it is broader than the direct examination.

THE COURT: Overruled. You may answer.

A. State the question again.

Q. I believe that you said at the end of your last answer that you thought you could not remember what the specifics were but that you thought the buildings were possibly on a campus?

A. That was just one. That was one method that we discussed and thought out to be looked into.

There were, as the population, as the whites moved out to the suburbs, there was another discussion, and there was another plan wherein — and I am sure this was the recommendation made, that even if a parent found out of the particular attendance in the area where his child was going to school, that the child would remain in that particular school; that if you drew rings around the City of Columbus and you built the school on maybe the first ring which would be the center city, central city, and the second ring could we say the next level and the third ring would be the outermost area of the school, Columbus School District, that if you built schools around on the second ring, that you could feed in from both areas and therefore bring about a better racial balance of the school. Do you understand the picture that I [586] am trying to paint, present to you?

Q. Yes, I do.

A. Well, this was one other method that I personally and we discussed this. I don't know if it shows up in one of the plans that's in all these documents. I haven't had a chance to go through them. That was one we talked about, that you could feed in from both directions rather than continuing to build little schools in a particular area and contain that population in there.

For instance, one time we were really seriously considering putting portable schools around even Linmoor Junior High. I was forced to accept that, although I was opposed to that, and it never happened simply because we didn't have enough space, and I would be opposed to enlarging of Linmoor Junior High which had about 1,300 students in it. It was only built for 800. I was opposed to enlarging Linmoor Junior High because I felt that here again we were bringing more and more blacks into a particular geographical area, school.

* * * * *

[605] Q. Mr. Lumpkin, let me do it another way. You do not need that.

It is your opinion, is it not, that you cannot, through the manipulation of zones, school zones, effect the segregation unless there is a change in housing patterns; isn't that right?

A. That is not my opinion, sir.

Q. All right. What is your opinion?

[606] A. My opinion is that the desegregation of the — a school system can be achieved even though you cannot change the housing policies of a particular location, community, locale or municipality. I think this has been demonstrated throughout the South.

I think that the School Board has a moral obligation to attempt, as well as other officials, to eliminate housing discrimination, red lining, and restriction, and etc., but that to say that you cannot eliminate geographical school zones unless you eliminate segregated housing, I don't

believe, in my own opinion — in my own opinion that that is true, sir, that you can.

Q. Mr. Lumpkin, that wasn't my question. My question was that it is a fact, is it not, that it is your opinion that you cannot desegregate simply through the changing of school zones?

* * * * *

[608] Q. All right. Now, my question, Mr. Lumpkin, is this: As long as housing is not integrated, schools will not reflect the racial balance of the community simply through the manipulation of school zones; isn't that true?

A. My answer to your question is that as long as the Board of Education continued to follow — or build schools in areas, as it gives an example here where blacks cannot attend, you will have segregated schools.

Q. Would you agree — would you agree with the proposition that the Columbus Board of Education, however, has built schools where there was a necessity to serve a school population?

A. I would agree that they have built schools where there was a necessity to serve a particular racial or ethnic population.

Q. All right. And you would also, I take it, agree that they have done this on a so-called neighborhood school basis; is that right?

A. I will agree that they use the neighborhood concept as a justification for building the school.

Q. All right. Now, directing your attention to your [609] last statement, is it your position that the construction of a school building in north Columbus in 1950 or the early '50's was a racially motivated decision?

A. In 1950 in north Columbus? How far north Columbus? I live in north Columbus, sir.

Q. Anywhere north.

A. Was racially motivated?

Q. Yes.

A. It goes back to my previous answer to you, sir, that if you built the school in north Columbus, one of your justifications for building it there in addition to the need, as you put it, to serve the people that live there would be of the demand concept. I say that the school could be built south, further south, and both groups of the community could feed into that particular school.

Q. And if that was done, that would be a departure from the so-called neighborhood concept, would it not?

A. I would say so.

* * *

[610] Q. Okay. Now, just a few more questions, and I'll be through.

You have stated that Gladstone, you felt, should have been constructed with more capacity than was initially contained in the building; am I right about that?

A. Yes, sir.

Q. It is true, is it not, that it was built, and then within two or three years an addition was put onto it so that its capacity went from, I think — its enrollment, at least, went from 300 and some to I think almost 500; is that right?

A. That is correct, sir.

Q. All right. And you also suggested that it should have been combined with, or there should have been a different district is more accurate, I guess, than that which was [611] adopted?

A. That is correct, sir.

Q. And did you take into account the capacities and enrollments of the surrounding schools when you made that recommendation?

A. Yes, sir.

Q. I believe that you referred to Duxberry as one of them, of the schools, —

A. Yes, sir.

Q. — and Hudson, possibly, as another. I'm not sure whether you mentioned Hudson or not. It would be a possibility, I assume, would it not?

[612] A. I think Hudson was — Gladstone was built — I will have to assume this. Gladstone was built to relieve some of the pressure of Hudson Elementary School. That was the idea. This is what we were led to assume.

Q. And I think that Linden which would be also immediately to the north of Gladstone was over capacity at the time, was it not?

A. No, sir, I am not aware of that fact.

Q. All right. It is immaterial here either way. Do you happen to recall what the situation was with respect to capacity enrollment of Duxberry which was another one you mentioned as a possibility of being included?

A. Duxberry, I don't remember the exact capacity, what the capacity is for Duxberry, but it stood to reason to me that if you were busing children from Gladstone over to Duxberry, it could not have been as crowded as Gladstone; and when you brought the students from Duxberry back into Gladstone, either you then brought children from some other area to take up that space or you had some extra space there. I don't recall the number of capacity for this school at this time.

* * *

REDIRECT EXAMINATION BY MR. ATKINS

[618] Q. [By Mr. Atkins] Mr. Lumpkin, I am showing you what is a missing page 2 from the exhibit marked Plaintiffs' Exhibit 352, and will ask you to read what is Paragraph 2 on that page?

[619] A. "While residential housing patterns have contributed to segregation in fact, we charge that the Board of Education has also deliberately promoted segregation in some school zones by drawing zone lines around segregated residential areas in order to contain Negro students in separate schools.

"In some instances, the zone lines have been drawn in particular shapes to avoid sending children of one skin color to schools with those of another color. The Moler school zone, for an example, is split in two, two separate distinct zones (outlined in green on the map overlay) which lies on the south and west boundaries of the Alum Crest School zone." May I read that again. "Alum Crest on the south." May I read that again. "outlined in green on the map overlay) which lies on the south and west boundaries of the Alum Crest zone. Alum Crest, as noted earlier, is over 80-percent Negro, while Moler is a mere 2.5-percent Negro.

"The NAACP will not permit the Columbus Board of Education to hide behind the so-called neighborhood school concept, especially when the board invokes this concept only when necessary to confine Negro children to sub-standard schools."

Q. Was that the position of the NAACP in 1966 and throughout the period up until and including 1969 when you [620] were co-chairman of its Education Committee?

A. It was, sir.

* * * * *

MARJORIE GIVEN

called as a witness on behalf of the
Intervening Plaintiffs, being first
duly sworn, testified as follows:-

DIRECT EXAMINATION BY MR. LUCAS

[624] Q. [By Mr. Lucas] State your full name and occupation, please, ma'am?

A. My name is Marjorie Given. My job classification is Typist-Clerk III. My function is assigning substitutes in the Columbus Public Schools.

* * * * *

[627] Q. [By Mr. Lucas] Mrs. Given, can you explain how your office operates in terms of placement of substitute teachers?

A. Our primary function is to fill a vacancy of an absent teacher with a certified substitute teacher. We receive the substitute teachers from Teachers Personnel. We receive them after they are hired.

[628] Q. And they have to be appointed by the Board; is that correct?

A. Yes.

* * * * *

[629] Q. The information you get from the Personnel Office contains an original personnel folder with the application of the individual, does it not?

A. Yes.

Q. And that application, how does it show the race of the applicant?

A. I can speak for elementary only because I —

Q. Yes, I understand.

A. On the application when the folder comes to us, there is a minority code number 1 or a 2 with a circle around it or a 4.

Q. What does 1 mean?

A. One means White.

Q. Two?

A. Black.

Q. Do you know what the others mean?

A. Well, 4 is oriental. Those are the only three that I have ever used.

Q. And it doesn't have any letters in front of it? It just has the number with the circle?

A. That is true.

Q. And that is on the original application for employment as a substitute; is that correct?

A. I see it on the application when it comes down to us after the substitute teacher has been hired, yes.

[630] Q. Now, are these numbers a code used by the Columbus School System?

A. Yes, at least by Teacher Personnel.

Q. Now, do many of these applications also contain the pictures of an applicant?

A. In the past the pictures were there. The picture is not required anymore, and many of the folders that come down never do have a picture in the folder.

Q. But they do have the code designation; is that correct?

A. Yes, yes.

Q. Now, you work with that as your base folder, and then you have another card that you use; is that correct?

A. Yes.

* * * * *

[631] Q. Now, there is a third type of card that you utilized in your day-to-day operations; is that correct?

A. Yes.

Q. Are these cards prepared each year —

A. Yes.

Q. — on each teacher?

A. Yes, they are.

* * * * *

[632] Q. I'll show you a card which has been marked Plaintiff's Exhibit 433-A, a card you furnished us at deposition. This is a Xerox copy furnished us at the time. You maintained your original card, did you not, —

A. Yes, sir.

Q. — because you needed it?

A. Yes.

* * * * *

[634] Q. Now, just on the right of that on the same line in the same box, essentially, is the racial code, is it not?

A. Yes.

Q. And what is that code?

A. It says MC-1.

* * * * *

[640] Q. And do you work closely with the lady who works with the secondary teachers?

A. We work side by side.

Q. And do you occasionally dip into each other's boxes for people when you need them?

A. Yes, on a very busy day, if I run out of substitutes, I will borrow some of hers and vice versa.

Q. And does she use a slightly different code system than you do?

A. I cannot honestly answer that question.

Q. From handling her —

A. She does not — we do not keep our cards the same way.

Q. The same way. From handling her cards, can you tell me whether or not a number of those cards have the corner blacked out?

A. Yes.

Q. And is that the way she codes race on her cards, to your knowledge?

[641] A. Yes, to my knowledge.

* * * * *

[645] Q. All right, I would like to show you a card from 1953 which is not marked as an exhibit, but it is not out of the card files that were brought here at our request, not our demand, our request to Mr. Porter, and he was kind enough to bring them here.

I recognize that you had no responsibility whatsoever for preparing these cards, but I show you a card, a printed card. Is this similar to the cards that are utilized by you?

A. I have seen that card in the card file, but I have not seen — I do not believe I have seen any other one like it.

Q. What does this card say?

A. That card in the upper left-hand corner says "Colored."

Q. What is the date?

A. January 1953.

Q. Mrs. Givens, I show you another card, and perhaps I better let you tell me what you think that date is on it?

[646] A. Well, it is for the school year 1959-1960.

Q. There is a pencil date, and then there is a typed date also; is that correct?

A. I don't know exactly what the pencil date is either.

Q. It looks like 190 or 196. In any event, it is typed on the card?

A. It is for the 1959-60 school year, yes.

Q. And what does it say at the top? Would you read what is typed in at the top?

A. Okay. It says: "Not Bellows, Fairwood, Southwood, Chicago, Avondale or colored schools."

Q. I am sorry, it doesn't have any conjunction, does it? It just has a dash?

A. That is right. I am sorry.

Q. I show you another card, 1960-61. Unless the other parties insist, I would prefer not to read the name into the record, but is there a "C" behind the name of the individual shown on that card?

A. Yes.

Q. All right. It is in parens, isn't that correct?

A. Yes.

Q. I show you a card for 1965-66. Is there a "C" behind that individual's name in parens?

A. Yes.

* * * * *

JOHN ELLIS

called as a witness on behalf of the Intervening Plaintiffs, being first duly sworn, was examined and testified as follows:

CROSS EXAMINATION BY MR. LUCAS

[661] Q. [By Mr. Lucas] State your full name and your occupation, please.

A. John Ellis, Superintendent of the Columbus [662] Public Schools.

Q. How long have you been Superintendent?

A. Since August, 1971.

Q. And that's also the date you first became employed in the system?

A. Yes, sir.

* * * * *

[683] Q. [By Mr. Lucas] Dr. Ellis, can you define for me the neighborhood [684] school concept as used in the Columbus School System?

A. In the Columbus School System we attempt to construct a school building in an area where a large number of pupils exist so that the pupils will not have to travel an excessive distance to get to their school, but will be attending a school as close to their home as possible.

Q. Is the neighborhood school concept as used here in Columbus in any way a sociological concept of neighborhood?

A. It is primarily a school that is defined geographically. We attempt to set boundaries based on natural boundaries such as rivers, super highways, major arteries and things of that nature.

Q. Would I be correct in saying that in addition to those physical dimensions you just described that the neighborhood school concept in Columbus is not a sociological concept of ethnic neighborhood or any other kind of homogenous group? [685]

A. We do not attempt to draw school boundary to isolate or identify anyone on a sociological basis.

Q. You don't look at the idea of the community having a separate integrity of its own which is described by the boundaries drawn around it for the school purposes? That's not the concept you use?

A. The concept is essentially to draw a boundary that makes the most sense, to create a boundary where the greatest number of pupils exist, where they can get to school in the most convenient fashion. I don't know how that relates to your question of integrity, but it's essentially a geographic concept.

Q. Would it be fair to describe it as: Your basic purpose is to obtain a walk-in school?

A. The basic purpose is to provide a school that is convenient to the home and the parent so that they can establish a good relationship between the school and the home to insure that we reduce travel time to a minimum, transportation costs to a minimum and improve the communications between the home and the school and create a school in an area where it can be close to the people.

[686] Q. In referring now to Plaintiffs' Exhibit 278, the elementary overlay for 1975-76, which is superimposed on top of the 1978 Census, Plaintiffs' Exhibit 252.

Let me ask you first, since I noticed during the recess you were comparing this with a map that you had, is this overlay correct as far as you know?

A. As far as I know, but I've only had a minute or two to look at it, so that's not sufficient to confirm its authenticity.

Q. Has you staff reported to you as to whether or not it's correct?

A. They have not.

Q. Have they been studying it?

A. If they have, I have not been advised.

Q. But from your quick inspection, you do not see anything wrong with it?

A. It appears to be okay.

[687] Q. Okay. All right. Let's look at Beatty Park School.

A. Beatty Park.

Q. Is it Beatty? I am sorry. Is that a — one of the smaller school attendance areas in the Columbus School District?

A. I don't know. I can only look at the map, and it appears to be the same size as many others I see on the map.

Q. Is that a neighborhood school?

A. It is.

Q. All right. The school's not located in the center of that; is it?

A. It is not.

Q. All right. There is another school building, looks like three, four blocks to the west, called Garfield; is that correct?

A. That's correct.

Q. That zone's about doubled the size of the Beatty zone; isn't it?

A. Yes.

Q. Is that the same kind of neighborhood school as the Beatty School?

A. Yes, it is. There is a lower density, and we've had a decrease in pupil population in that particular area. In fact, the Felton School was located here at one point in [688] time, and it was one of the schools that we mentioned that we have closed because there was a dramatic reduction in the number of pupils.

Q. But students in the Garfield zone would have to travel further distances than those in the Beatty Park School zone; is that correct?

A. My understanding, based on recollection and not that particular map, is that no pupil in the Garfield area has to travel more than a mile and a half, I think 90%

of them one mile or less, but I'm recalling from a year or two ago, the statistics.

Q. The Beatty Park children, do they have to travel that far?

A. They would have to travel a half mile or less in most cases.

Q. How about the Main Street School? Do they have to travel less distance?

A. Yes, for the most part.

Q. You call those neighborhood schools; is that right?

A. We do.

Q. What about the Kingswood School, that's about — it looks to me about three times the size of the Garfield zone, geographically speaking.

A. That is correct. I would point out, however, that in a large portion of that zone we had the University Farms, [689] which do not house children but rather that is property that is owned by the Ohio State University. There are a few, if any, children in there, so the size of the zone does not represent the distance the child might have to travel.

Q. Are there any streets above the Lane Street?

There appears to be some sort of thoroughfare.

A. Yes, Lane travels across.

Q. Are there some streets above that?

A. There are some streets above that, yes.

Q. All right. What about the Winterset zone, is that also another neighborhood school, walk-in school?

A. It is a neighborhood school, yes.

Q. For people to walk in from all over Winterset?

A. I believe that most of them do.

There has been some transportation in the entire northern area of the city because we have had a tremendous amount of overcrowding, so children have been transported to the various schools. I would state that when you locate a school in a developing area, there is a tend-

ency to have that school be sort of a wider geographical area, and then as it develops, we would sometimes subdivide the area because you have a greater number of pupils living there, and in order to locate the school that's close to the people and as efficiently as I described we attempt to do, a subdivision sometimes occurs.

Q. There is no consistent pattern, though, in the size [690] of the school attendance area and the colored schools in Columbus, is there?

A. The consistency is in attempting to locate a school as close to the greatest number of pupils as possible. Size is only one criterion.

Q. How about distance from school?

A. That's another.

* * * * *

[690] Q. [By Mr. Lucas] All right. Just limiting your answer, if you will, at this point to distance to the school, is there any consistency in the pattern of neighborhood schools in Columbus?

A. Yes, there is a consistency. We have attempted to locate schools so that a child will not have to travel farther than one mile to the neighborhood school. Now we do not meet that criterion in every instance, but that has been a general guideline.

* * * * *

[713] Q. Have you examined the pattern of principal assignment in the Columbus School District?

A. Yes.

Q. Is there a congruence between black principals and black pupils in the Columbus School District?

A. There was a tendency to assign black principals to schools that were predominantly black.

* * * * *

[717] Q. [By Mr. Lucas] From an educational point of view, do you favor an educational process whereby

children attend — black and white children attend the same school building?

A. Yes.

Q. What steps are you taking to achieve that in Columbus?

A. The major effort that we have taken I would characterize as twofold. First, through the school building program, we have added a variety of career centers that are open and available to students from across the school district. At the elementary and junior high school level, we have designated schools as developmental learning centers that are open to children beyond the neighborhood district. We are also offering different alternative schools such as an informal school, a traditional school, an IGE school, a positive reinforcement school, all schools that will have students from across the entire school system. So one thrust is to insure that we have a wide diversity of educational programs that will appeal to the great needs of a metropolitan area.

The second part of our approach, and all of this I [718] assume could be embraced under the label "Columbus Plan," is to insure that pupils know about the opportunities, that parents know about the opportunities and that a transportation network is created so that the opportunities are not merely ephemeral but can become actual. [719]

Q. But this is a programmatic alternative offered to all students, regardless of race. It is not a desegregation device, is it?

A. In order for a pupil to transfer to another school for the entire day, that transfer must improve the racial balance of the transferring and receiving school, and therefore it could be construed as an integration device.

Q. That's not its primary purpose or effect, is it?

A. It is certainly a primary purpose.

Q. The first two years of the Columbus Plan, as a matter of fact, the district refused to provide free trans-

portation for students whose express intent was to achieve a desegregated education; isn't that true?

A. That is true.

Q. So would you characterize the plan as a desegregation plan during the first two years of its operation?

A. It still had an integrative effect.

Q. What percentage of the total enrollment of the Columbus School System is involved on a full-time basis in the Columbus Plan?

A. The total participants in the Columbus Plan are approximately 3,600 pupils, so we are talking about a percentage of slightly less than 4 percent.

[722] Q. [By Mr. Lucas] Over that period with the figures and the changes you have seen, can you describe the Columbus Plan as a plan likely to eliminate the pattern of segregation in the Columbus Public Schools?

A. The Columbus Plan has been in operation for three years. We have made an enormous effort to communicate its advantages to set up different alternatives. Many of the new facilities that are programmed to become part of the Columbus Plan are not yet operational but are [723] becoming so. Certainly given the present level of the Columbus Plan, one can scarcely be comfortable that the level of integration that might be desired is accomplished, but neither would I conclude that because the Columbus Plan is new and has not yet demonstrated its capacity to insure that every school will have a reasonable degree of integration, that it will not happen. We are working mightily to insure that it does.

* * * * *

[740] Q. [By Mr. Lucas] What did you say the total number was of transported, not—excluding special education?

A. Ten thousand eight hundred and ninety-eight.

Q. So, roughly, nine thousand students are transported on a regular basis not related to any special physical or mental handicap; is that correct?

A. That's correct.

Q. And not related to the Columbus Plan itself?
[741]

A. That's correct.

Q. Has that level been fairly constant since you've been Superintendent, Dr. Ellis?

A. Yes, except for the Columbus Plan students which has increased dramatically to the one thousand from zero.

Q. So it would be fair for me to say, then, that the Columbus System, since the time you became Superintendent, has averaged transporting nine thousand students a year other than special education programs?

A. Yes.

° ° ° ° °

[755] Q. Is the Innis Road Elementary School opened now?

A. It is.

Q. Is the Cassady Elementary?

A. It is.

Q. In considering what you'd do about attendance at those schools, was one of the alternatives you considered the Princeton pairing?

A. We did not use that terminology, but that was one of the alternatives.

[756] Q. Was that option presented to the Board?

A. It was.

Q. Was it rejected by the Board?

A. The Board of Education selected the other option which was presented as an equally desirable option.

Q. Who prepares the proposals for you?

A. Generally speaking, the Division of Administration. They are the ones that handle the boundary lines and

work with them on an intimate basis. I do not work with boundaries on an intimate basis.

Q. Mr. Carter was the gentleman in charge of that, except he's on Sabbatical at the present time; is that correct?

A. That's correct.

Q. And did he work on the Innis Road and Cassady proposals?

A. Yes.

Q. All right. In other words, they originated before he left on his Sabbatical?

A. Yes.

Q. Who is the individual in charge of that department today during his absence?

A. Philip Fulton.

Q. Mr. Fulton also worked on a proposal?

A. I don't know if he worked on it or if he worked [757] with it after it was completed. It occurred about the time that a change was being made.

Q. What about the boundaries at Walnut Ridge, Eastmoor and Independence, did you present two sets of alternatives to the Board at that time?

A. Yes, sir.

Q. And what were those alternatives?

A. Well, they're hard to describe verbally, but they simply provided the geography in two different ways, and we attempted to look at ways in which we could insure when those buildings opened that they would enhance the possibility for integration as much as possible, and I presented to the Board of Education two options that seemed to me to be very reasonable to divide the territory and insure that each school would open with some degree of integration.

Q. All right. One option called for a substantially larger degree of integration in the two schools, did it not, or the three schools? I'm sorry.

A. Yes.

Q. And another option provided for some black and white attendance at each school, but it was substantially different from the first option?

A. It was somewhat different.

Q. And did the Board make a choice of the options [758] or make a choice of the option which provided for less desegregation?

A. The Board made a choice that would select the one that would have the least amount of transfer, and there was less racial balance in the schools.

Q. And when did that take place?

A. April or May of '75.

* * * * *

[760] Q. Let's go back to the Innis Road-Cassady Elementary proposal. Will you describe that in a little bit more detail?

A. Basically we looked at two options. One was maintaining the present kindergarten through grade six organization that does exist in almost all instances in the Columbus Public Schools, and that was the alternative that was selected, the maintenance of the present organizational pattern for the school system.

[761] As another alternative, we looked at the possibility of making one a K - 3 center and another a grade four through six center which would in effect have created a large district and would have had the population in both of these schools be representative of a larger area.

Q. At your deposition you testified that both alternatives were educationally realistic and acceptable alternatives, did you not?

A. They were to me.

Q. If you paired those two schools, what would have been the racial composition? What was your projection?

A. Roughly 51 percent - 59 percent non-white.

Q. By not pairing, did you end up at Cassady with 552 black students and 66 white?

A. That's approximately correct.

Q. I am no mathematician, but how far off did the other alternative in terms of percentages leave you?

A. Well, I can give you where we are today. Innis Elementary School has 154 minority children out of 545 or 28.3 percent minority, and Cassady Elementary has 66 white students, 552 black students, or an 89.3 percent minority population.

[762] Q. [By Mr. Lucas] What are you reading from?

A. From Plaintiffs' Exhibit 468.

Q. What date is that data from?

A. The data that I am reading from is from the current HEW form which was provided to the Plaintiffs, and I don't recall the number.

Q. '75-76 school year?

A. Yes, current school year.

Q. And you have what for Cassady?

A. Cassady, 66 white and 552 black.

Q. What percentage does that give you?

A. Eight point three percent minority.

Q. Thank you. Cassady Elementary School came into the district from another district, did it not?

A. Yes, from the Mifflin School District.

Q. And you were in the process of establishing attendance boundaries for the Columbus Board's operation of that school; is that correct?

A. Could you repeat that, please?

Q. You were in the process of establishing the attendance boundary for the operation of that school, were you not?

A. We maintained the present attendance boundary when the school came into the system, but there was tremendous overcrowding in the area. The Mifflin School [763] District had been financially floundering. They were

overcrowded. We had to assign pupils out of the district to a nearby temporary facility, so that we were engaged in projecting a construction program and the establishment of boundaries for that area.

Q. The situation with the Mifflin District was a total merger, was it not?

A. The total Mifflin District was merged to the Columbus District, yes.

Q. Did the State Board approve the transfer of the Mifflin District to the Columbus District?

A. I believe that the Mifflin District was transferred through the County Board of Education. There is a very complicated transfer law process, and there were several parcels of land that were transferred in a unit. Part of it became litigated, and part of it was transferred, and part of it that the State Board approved, and part of it the County Board approved, and I would suggest that if you want a definitive answer on that, you should get a battery of lawyers to respond.

* * * * *

[765] Q. [By. Mr. Lucas] Now, you mentioned that Columbus had this tremendous influx or tremendous increase in its enrollment historically, some of which, most of which may have occurred before you came. Is Columbus greatly different from any other medium-sized city school system in its experience of a rapid increase in enrollment during the period of time when it occurred in Columbus?

A. I think it is.

Q. All right, can you tell me the period of time that you think this rapid increase in enrollment occurred in Columbus?

A. If I may refer to a document, please?

Q. Sure.

A. The document that I have didn't contain the information that I thought it did, but I can respond to your question nevertheless.

In 1940 or immediately at the end of World War II, Columbus had about 140 or had 40 square miles of territory [766] and has expanded to today where the school district has about 160 and the city has considerably more, like 175 or 180. That's a four-fold growth in area, and there was an even greater growth in the number of pupils.

The growth was heaviest in the '50's and in the '60's, when the war babies swept through the school system. Now, we are not unique in that we had the great influx of war babies because almost every district across America experienced that. Where we are unique is that we were expanding rapidly with territory, and we were having the war-baby boom sweep through the district as well. Very few districts in the country had both factors impact the district.

Q. Have you made any study of that particular phenomenon?

A. Of which phenomenon?

Q. The one you are describing, the impact of annexations and the baby boom?

A. No, because there are very few districts that experienced a similar situation, and studies just do not exist. There are many studies with the single phenomenon of the war-baby boom, but when you juxtapose that with the rapid expansion of territory, you get a fairly unique situation.

Q. Is the uniqueness the fact that you have more [767] land mass involved, or is the uniqueness the fact that you had X amount of enrollment responsibility, increasing enrollment?

A. The uniqueness is that most American cities fail to expand their boundaries to any substantial amount.

Most American cities—in fact, many American cities were ringed by suburbs, and a different economic pattern developed. The shopping centers developed, and many of the shopping centers, if not most, were in the suburbs, and the cities badly deteriorated.

Columbus is fortunate in the sense that we have expanded outward and that we have annexed large amounts of territory, and, during that period of time, there has been a tremendous expansion of pupil population, so the uniqueness is in the two factors coming together. Very few cities in America have experienced that. There may have been others, but it is not a widely studied phenomenon because it is so unique.

Q. Would the fact that Columbus is not ringed in make it easier for Columbus in terms of desegregation or more difficult?

A. In what sense do you mean easier, sir?

Q. Well, many cities have claimed that because they were restricted and could not deal with the suburbia growth areas, that it made it difficult or impossible to [768] have effective or stable desegregation processes. Are you familiar with that?

A. Yes, sir.

Q. And I take it from what you have just said that Columbus did not have the problem of being hemmed in or ringed in as other cities may have had. Can we agree so far?

A. We can agree so far.

Q. My next question, does the fact that Columbus was not hemmed in create an added problem that made it more difficult for Columbus to desegregate? Is that your position?

A. No, my position would be that the process of desegregating, if a district is required to desegregate, is not simply one of whether or not you are hemmed in, but rather where may people flee to get away from something

they consider to be undesirable? Therefore, any city that is required to desegregate, and where there are convenient sanctuaries to which they may flee, is faced with a very considerable problem. It is not just simply being hemmed in. It is a question of where may people move if they wish to leave for whatever reason they wish to leave?

Q. Why people consider desegregation undesirable and therefore flee; is that your thesis?

A. My thesis is that if people find anything to be undesirable — and desegregation could be one and, in fact, [769] in some cities is one. If there is an easy or convenient way for them to leave the city and if there are convenient suburbs or territory or other areas nearby, they frequently will avail themselves of that opportunity. Therefore, if you are speaking directly to the question of the effects of ease, which was your question, not mine, and if ease meant that it would be effective, which I assume is part of your question, a desegregation plan that is required, if it is found to be required, is most apt to be effective when a very wide geographical area is included so that the phenomenon of flight of the middle class, both black and white, is reduced. If that does not occur, I think that James Coleman's evidence which is fairly recent is indicating that desegregation plans may have well produced resegregation which is a serious liability of starting out to cure an ill and ending up with a worse one.

Q. I don't want to get into an extended debate, but are you aware that Professor Coleman has now conceded that there is no basis, in fact, for his statement that white flight was increased by desegregation in 20 major cities that he reported on?

A. I am aware of the fact that Mr. Coleman has been seriously questioned. He acknowledged that some of the research on the 20 cities was not as substantial as it ought to be. If you read on with his arguments, he states [770] that his essential thesis is correct and can be demonstrated.

Q. Where he said despite the fact that the evidence he used didn't support his thesis, he still believed it?

A. No, sir, that's not the proper characterization of what the man said. [771]

Q. We'll get into that with another witness.

I still, with our early starting hour this morning, I still am failing somehow to understand your point. Has Columbus' situation today with the racial pattern in the schools been somehow aggravated or been made more difficult to deal with the fact that Columbus has been hemmed in like other cities have been hemmed in?

A. I think it has made it a better city, a better school system in many respects in that it has been an advantage to the district with respect to integration or desegregation, or whatever term you chose, rather than a disadvantage.

Q. So it would be fair for me to say that Columbus has had a unique advantage and was not faced with similar difficulties that other communities may have been faced with in terms of the desegregation process?

A. I would not agree that it had advantages or that it was not a difficult process. Columbus was inundated with pupils and territory. In some years, 60 different boundary changes were made. You've have to be a genius to attempt to — to remember all those particular boundary changes. There were years when we were simply scrambling madly to insure that a child had a roof over his head. It was a regrettably difficult situation. Each September, you just didn't know where the children were going to be put, [772] because there were too many, and the building's weren't ready and you were at temporary quarters and temporary rooms and it was a monumental problem.

Now, I was not here at the time, but I participated in many staff conferences, and these administrators and Board members of Columbus and the residents of Columbus, in my judgment, have done a masterful job of facing

a major problem of merely insuring that a youngster had a roof over his head.

Q. Let's see, these youngsters were in a school somewhere and had a roof over their head before annexation took place, did they not? They were not out in the streets?

A. Well, it was a scramble. There were times — in fact, we've had people complain that they did not, in fact, have a roof over their head, but they had a piece of canvas and they were afraid, and we've had complaints that an airplane flying over would cause a problem, and that may seem ludicrous, but it was a very, very difficult situation to insure that adequate housing was provided for the vast number of students that this district had.

* * * * *

WILLIAM C. CULPEPPER

called as a witness on behalf of the
Intervening Plaintiffs, being first
duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. ATKINS

[1139] Q. [By Mr. Atkins] Would you state your name and address for the record, please?

A. William C. Culpepper, 1049 East Long Street.

* * * * *

[1140] Q. When did you first become active in real estate matters?

A. 1948.

Q. And in what capacity was that, sir?

A. As a sales person.

Q. In 1948 when you became a salesman in realty matters, was it possible for a black realtor to become a member of the Columbus Board of Realtors?

A. No, absolutely not.

* * * * *

[1141] Q. And in 1950 when you obtained your broker's license, did you attempt to join the Columbus Board of Realtors?

A. No.

Q. Why?

A. Because I was told by older brokers that the door to the realtors was closed to me because I was black.

Q. You were told this by older black brokers?

A. Right.

Q. Did you know any black brokers who were in the Realtors, Columbus Board of Realtors in 1950?

A. None, no place in the country that I knew.

Q. Did you in 1950 join an association of black realtors?

A. Yes, I did.

Q. What was its name?

A. The Columbus Association of Real Estate Brokers.

Q. And is that the same group that sometimes is popularly referred to as the Realtists?

[1142] A. Realtists, this is true.

Q. So there were white realtors and black realtists?

A. Right.

Q. Now, in 1950 when you first began practicing as a broker, where was it possible for a black broker to get listings?

A. In an area that had been decided by prior brokers would be acceptable, would be an all-black area.

Q. Let's see if we can be a little more specific. What part of the City of Columbus might you then have been able to get housing listings in?

A. Well, let's see. When I first became a broker, I believe the dividing line between black and white was Ohio Avenue.

Q. That was the race line in 1950?

A. Right.

Q. And it was impossible to get listings outside that area?

A. That's true.

Q. And that would be true both with respect to the City of Columbus and with respect to the suburban communities of metropolitan Columbus, would it not?

A. True.

* * * * *

[1143] Q. Yes, I will. In 1950 was it possible for a black realtist to participate in the multiple listing service available to the white realtors?

A. No, it was not possible.

Q. Now, in 1952-1953, what listings then became available to blacks?

A. Well, I would say that from Ohio Avenue to Taylor and from Taylor to Nelson Road.

Q. Was it around this same time that the Eastgate area opened up?

A. Later Eastgate, in the early '50's to mid-'50's.

Q. Now, was Eastgate opened up for listings to blacks prior to or after Hilltop was opened up for listings to blacks?

A. I would think about the same time. They would be in the same general time period.

Q. Both around 1953-'54, in that period?

A. Yes, right.

[1144] Q. And when did Driving Park become available as an area for black realtists to obtain listings?

A. About the mid-'50's.

Q. '55, '56, around there?

A. Yes.

[1145] Q. And this will be the area south of Livingston Avenue, maybe?

A. True.

Q. And when did the Shephard addition become available to black realtors?

A. About the latter '50's and early '60's.

Q. 1959, 1960; is that true?

A. Yeah, in right there.

Q. And when did the St. Mary's of the Springs area become available for the first time to black realtors?

A. Let's see. From mid-50's to '60's or the latter '50's to '60's.

Q. So it wasn't until the beginning of the 1960 period that black realtors could expect to have listings —

A. Yeah.

Q. — throughout that area?

A. Early '60's.

Q. And when did the Linden area first become available to black realtors?

A. About early '60.

Q. 1960, '61, '62?

A. Uh-huh, right.

Q. And was that all the Linden area or was it only part of it?

A. Well, it came in steps, —

[1146] Q. What do you —

A. — steps from the early part. We were told that the — that the dividing line would be up to 17th Avenue, from 11th to 17th.

Q. And then when was —

A. And then from 17th to Hudson.

Q. Okay.

A. And later from Hudson to Weber, but there was always that line, we was told, that — "Don't go beyond it." If you did, you won't be able to obtain financing.

Q. All right. Now, let's go back to the 11th area, to the 17th Avenue area. Would that have been in the — I think you said the early '60's, '61, '62, around there?

A. Right.

Q. And subsequent to that, the area from 17th Avenue to Hudson became available; is that your testimony?

A. Right.

Q. And that would have been '62?

A. Right, in there.

Q. '63?

A. Uh-huh.

Q. And then the area from Hudson to Weber, farther north, became available and that would have been what, '64, '65, around there?

A. In the — let's see, yeah, in that period.

* * *

[1167] Q. What was the first personal experience you had with a suburban listing?

A. Well, I call it suburban, but yet it was in the City of Columbus. I sold a property at 806 Josephine back in 1966, and we had a cross burned in front of the property.

Q. In front of the house on Josephine?

A. Yes. We couldn't get a lender in town to make the loan, so I made a trip to Chicago, and I was able to get the Supreme Limited Life Insurance Company to make the loan. I couldn't get a lender to handle it personally, so I had to go into FHA and learn how to process the loan myself. They took me to the basement of the FHA, and I was briefed there how to put together an FHA, my first FHA loan, but they did insure it. Supreme Limited Life Insurance Company did make the loan.

Q. And did you subsequent to that have particular [1168] experience with another suburban community in metropolitan Columbus?

A. Right.

Q. Which one was that?

A. We sold a few properties in Westerville, Worthington. I did have a listing in Arlington at one time.

Q. Upper Arlington?

A. Upper Arlington.

Q. What happened to that one?

A. Well, I had all kinds of pressures on me to cancel the listing by realtors, mortgage bankers, presidents of banks, to cancel the listing, but I stood my ground. I didn't cancel it.

Q. What did you do with it?

A. Well, I showed it several times to various people at night after 8:00 o'clock, after sundown, where we couldn't be seen. I didn't get a sale, but later — it was a \$50,000 property, and I understand that 25 whites who lived in the Upper Arlington area formed a corporation and bought the property.

Q. Was this corporation in existence prior to the discovery by Upper Arlington that you had the listing for the property?

A. I don't think so. I understood it was formed for that specific purpose.

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MICHAEL MCLAUGHLIN

called as a witness on behalf of the
Intervening Plaintiffs, being first duly sworn,
testified as follows:

REDIRECT EXAMINATION BY MR. ARNOLD

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[1244] Q. [By Mr. Arnold] You have previously identified this document marked Plaintiffs' Exhibit 349 entitled "Housing the Region" as one that you were familiar with and had dealt with?

A. That's correct.

Q. I will call your attention to a statement on page 15 entitled "Racial Migration." Are you familiar with that?

A. I have read through this several times.

Q. Are you or are you not familiar with the underlying data which support that?

A. That's correct, I am.

Q. Would you read that, please? [1245]

A. Suburbanization was also the trend for the Negro population during the last decade as shown in figure 8. Although these rings are too large to judge the even dispersal of Negroes throughout the region, they do indicate an increasing internal mobility. Where 13 percent of all the Negroes in the region live within Ring No. 1 in 1960, that proportion had fallen to 2.7 percent in 1970, but this mobility was limited to certain identified areas and land adjacent to those areas. In 1960, for example, 73.6 percent of all Negroes in this region were concentrated within 21 contiguous census tracts in the near northeast and east side of the central city of Columbus. In 1970, this changed only slightly. 71 percent of all Negroes now live in 23 contiguous concensus tracts. See figure 9.

Q. Is that consistent with your knowledge of the change in population between '60 and '70?

A. Yes, it is.

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CARL F. WHITE

called as a witness on behalf of the
Intervening Plaintiffs, being first
duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. ARNOLD

[1291] Q. [By Mr. Arnold] Please state your name and your address, please?

A. Carl F. White, 3090 Blue Ridge Road, Columbus, Ohio 43219.

Q. What is your occupation, Mr. White?

A. I'm Executive Director of Housing Opportunity Center, located at 700 Bryden Road, Suite 208.

Q. How long have you served in the capacity of Executive Director of the Housing Opportunity Center?

A. I've been Executive Director since the opening of the Housing Opportunity Center, which was the fall of 1969.

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[1319] Q. In your position with the Housing Opportunity Center, have you been involved with any efforts to contact the School Board with regard to the problem of segregation in schools?

A. Yes, we have. In 1975 we met with Mr. Ellis and Mr. Merriman about the impact which would take place if the Cassady Elementary School boundaries were changed and a new school created. We recommended that the Innis Road School become a K-through-3 school and that the Cassady Elementary School become a 4-through-6 school in order to try and keep a racial balance within that school district.

Q. Now, you say we. Was this when —

A. This was the PTA.

Q. As a PTA member?

A. As a PTA member and then as a concerned parent and then as a person from Housing Opportunity Center, we did make these requests.

Q. Have you also had correspondence with the Columbus School Board regarding the problems of open housing and the effect of segregated housing on the school system?

A. Yes, we did send letters to the Columbus School Board. We did send letters to the Columbus School Board. We mailed a letter on April 28, 1971 to the School Board, at which time we talked about the Board and their position [1320] about building new schools. I have that letter here.

Q. Would you read that letter, please?

A. "Gentlemen: The Housing Opportunity Center notes with interest the School Board's recent appointment of the Task Force on Racial Discrimination to study racism

in the schools. We noted that one of the first areas that came up was the suggestion that new schools be built so as to accomplish integration. We also noted that the suggestion was made that the School Board may move rapidly to secure open housing agreements from developers.

"The Housing Opportunity Center believes such efforts are admirable. However, we do not believe that they will accomplish the task of integrating the suburbs so as to make the schools from which such children come integrated.

"It seems obvious that the School Board is going to have to do more than to get lip service paid to existing law with respect to discrimination in housing.

"It would also seem that the School Board has an affirmative responsibility not to take actions in the future which are likely to perpetuate segregated enrollments in the Columbus Public School System. Specifically, we think that the School Board should not construct any new schools which will not result in their being integrated. This would apply both to all-white or black schools built in the suburbs or in the inner city.

[1321] "We would therefore appreciate hearing from the School Board and being advised what steps the School Board intends to take with respect to dealing with the problem of our segregated suburbs and the location of new schools in those areas."

Q. What response did you have to that letter?

A. None to this letter.

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FRANK GIBB

called as a witness on behalf of the
Intervening Plaintiffs, being first
duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. STEIN

[1584] Q. [By Mr. Stein] Repeat your name and address for the record, please.

A. My name is Frank C. Gibb, and I reside at 376 East Fourteenth Avenue, Columbus, Ohio.

Q. What is your occupation, sir?

A. I am Chief of Legal Operations for the Ohio Civil Rights Commission.

* * * * *

[1598] Q. I hand you what's been market for identification purposes as Plaintiffs' Exhibit No. 223 which is a letter from you to John Ellis, I believe, and ask you to read the first paragraph of that letter.

A. "Dear Sir: You are hereby advised that in the event of and after a preliminary finding by the Commission that unlawful discriminatory practices have been and are being engaged in by the respondent and in the event and after failure of attempts to conciliate the above matter by informal meetings of conference, conciliation and persuasion, a public hearing will be held at a place and time to be set after the failure of such attempts as set forth in the enclosed certified complaint and notice of hearing."

Q. What is the date of that letter?

A. October 18, 1972.

Q. And it has enclosed with it a complaint and notice?

A. That is correct.

Q. I believe paragraph 3 contains the particular charges of this complaint. I wonder if you might read those for the Court?

A. "That an investigation initiated on the charges of [1599] the Columbus Area Civil Rights Council and the Northwest Area Council for Human Relations, complainants herein, and conducted by the Commission pursuant to and in accordance with Ohio Revised Code Section 4112.05(B) disclosed or tended to show the following facts:

"A. That respondent controls the placement of its teachers and other professional employees.

"B. That respondent specifically assigns black teachers and other black professional employees to schools within its jurisdiction which are in areas of high black population proportion or which have a high black student enrollment.

"C. That in over 40 of respondent's schools located principally in areas of high white population proportion or which have a high white student enrollment, few or no black teachers or other black professional employees are employed.

"D. That as a result of respondent's pattern and practice of assigning its black teachers and other black professional employees by race, the opportunities of such teachers and professional employees for advancement and other job-related benefits are severely limited.

"E. The discriminatory patterns and practices alleged herein existed on June 1, 1972 and continue to date."

* * * * *

[1607] Q. As a result of your personal involvement in this matter leading up to that hearing in 1973, was a conciliation agreement entered into between the Ohio Civil Rights Commission and the Columbus Public Schools?

A. There was an involvement of some information that I conveyed to the Commission which led to the agreement, yes.

Q. What type of information did you convey to the Commission?

A. Some principles, along which it was indicated to me that settlement might be possible without hearing.

Q. I hand you what's been marked as Plaintiffs' Exhibit 229 and ask you what this document is?

A. This is a conciliation agreement and consent order, in the matter of Columbus Board of Education and Superintendent of Columbus Public Schools.

Q. Is this before the Ohio Civil Rights Commission?

A. Yes.

Q. Does it indicate in the upper right-hand corner that it was approved by the Commission on July 20, 1973?

A. Yes, it does.

Q. Is it, in fact, signed by members of — by the President of the Columbus Board of Education, as well as the Commissioner for the Civil Rights Commission?

A. Yes.

[1608] Q. What were the general broad areas of employment contained in this conciliation agreement?

A. Generally, over a two-year period, sufficient transfers and other assignments of teachers by race would be made to assure that all schools were within a range of 7½ percent, plus or minus the racial proportion which existed in the entire Columbus Public School System for teachers. An additional one year was granted in the case of four heavily impacted schools.

The interim goals were set up requiring, with the exception of the four schools, that 50 percent of the goals be achieved by the first year, and by that I mean the first assignment. After the execution of the agreement which was in September, 1973, with one third being required the first year for the four heavily impacted schools.

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MYRON SEIFERT

called as a witness on behalf of the
Intervening Plaintiffs, being first
duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. LUCAS

[1669] Q. [By Mr. Lucas] State your full name and occupation, please.

A. My name is Myron Seifert, School Historian of the Columbus Public Schools.

THE COURT: How do you spell your last name?

THE WITNESS: S-e-i-f-e-r-t.

Q. (By Mr. Lucas) Mr. Seifert, how long have you held that position?

A. Eleven years.

Q. What are the duties of your position as Historian?

A. We establish a museum, per se, and, in addition, we have a research facility. It is the school history [1670] research facility.

Q. Do you have a staff that works under you?

A. No, I do not.

Q. Do you maintain certain files and records under various headings and categories concerning the operation present and past of the Columbus Public Schools?

A. I do.

Q. And these are records obtained from within the school system and from independent research on your part; is that correct?

A. That is correct.

• • • • •

Q. Mr. Seifert, you have written a document which is entitled "Early Black History in the Columbus Public Schools"; is that correct?

A. That is correct.

[1671] Q. And this is a historical analysis of the operation of the Columbus Public Schools with respect to black students and black teachers; is that correct?

A. In part. It is a documentary largely from newspaper sources.

[1672] Q. All right. Do the other sources include Board minutes and annual reports to the Board?

A. That's correct.

Q. And you maintain the supporting documentation for this early black history in the Columbus Public Schools? You have supporting documentation which went along with it?

A. Yes, indeed, I have.

Q. All right. And I believe you at some point in time, under the direction of Mr. Porter, furnished to Mr. Montgomery copies of those documents?

A. I have made all available, all resources, and that is the policy that we maintain.

Q. Very good. Let me show you a copy of that. It bears Intervening Plaintiffs' Exhibit No. 351, and the Original Plaintiffs' Exhibit No. 51-A, capital A, 1. I'll ask you if you can identify that as the document we've been referring to?

A. That is correct?

* * * * *

[1685] Q. Now, you have quoted on numerous occasions in this report from reports in the Ohio State Journal. Was that a newspaper regularly published in the City of Columbus?

A. That is correct.

Q. All right, would you read at page 11 of your report a reference to Reverend Poindexter who I believe you called a past master of public relations?

A. That's correct.

Q. You quoted from a report in the Journal dateline April 6, 1869. Would you read the excerpt you have quoted?

A. This is a letter to the editor of the Ohio State Journal. Morning Journal it was called then.

"In your issue of Wednesday morning last, the public are informed that the Columbus Board have resolved if practicable to so alter the building at present occupied as a school house by a part of the colored children of Columbus as to make to accommodate the whole of them. If not found practicable to thus alter it, then they propose to erect a new building. Such alteration is not practicable, and it is to be hoped the building committee [1686] will so find and determine. The little piece of ground not already

covered by the old building is entirely too small for necessary yard privileges. And playground, there is none."

Q. From your examination of the information at that time — I am sorry, if you will just turn to page 12, I think it answers my question. Read the first sentence at the top of page 12 which is a continuation of this letter.

A. "To compel our little ones, residents in the south end, to travel to the north end and then to crowd them into such a building as that will be when altered is not to carry out the school law. Any who will go to the trouble to read the school law of Ohio will find it is the design of the good people of our state, as provided for in the State Constitution and enacted in their legislature, to secure to all our youth who will it the advantages of a good common school education."

[1691] Q. Mr. Seifert, would you turn to Page 15 and return to the section entitled Both Whites, Negroes Petition Board in 1869. Would you read the first paragraph there.

A. "The race issue in Columbus in 1869 was some times a two-way street. The February 23, 1869 Minutes of the Board of Education contain an insertion that white citizens in the neighborhood of the Sixth Street School viewed the school a negro school "as being an annoying and disturbing element to the neighborhood" whereupon the Board instructed the building committee to "abolish said school as speedily as possible and open a school in close proximity to the other colored schools."

Q. From your review of the records, do you recall where this particular school was located on Sixth Street? Was there any connecting street nearby that you could help us with on that?

A. No, I am fuzzy on the location, Mr. Lucas.

Q. I believe the next paragraph indicates that that decision was reversed a month later?

A. Yes.

Q. At least that is my interpretation of it; am I correct?

A. Yes, that's right.

[1692] Q. Then again, in the third paragraph, in March of 1869 the Board vacillated again?

A. Um-hmm.

Q. With respect to the erection of a colored school house; is that correct?

A. That's right, yes.

Q. Finally, however, what did the Board authorize?

A. Authorized "either to build a third story on the old house or, if that is impracticable, to erect a two-story frame."

Q. There was also a petition, and I think this is what you referred to in the two-way process, to establish a negro school at some convenient location in the southern part of the city?

A. That's right.

Q. That was in November of 1869; is that correct?

A. That's correct.

Q. Up until that time, or at least through that time, the negro students in that portion of the city were having to get to the other schools in the northern portion of the city; is that true?

A. Yes.

Q. Is that your understanding?

A. Um-hmm.

Q. You have to say something for this lady here.

[1693] A. "Prior to the year 1871 futile attempts have been made to establish adequate schools for negro children, and in this year the active efforts of a few of the leading negro citizens brought the subject prominently before the public.

"May 23, 1871 the Board decided to reconstruct the school building on the corner of Long and Third Streets and establish it as a negro school."

Q. It was called the Loving School at that time?

A. It was called the Dr. Starling Loving School.

Q. Dr. Loving was a member of the Board at that time?

A. He was a member of the Board of Education and also a physician.

[1694] Q. Now, there's a reference to an entry by the Clerk of the Board. The original title of the Board was Board of School Directors; is that correct?

A. Yes.

Q. All right. There's an entry of May 9, 1871, in the Board minutes. Does this refer to the same construction that you've just talked about at Long and Third?

A. I would assume, not knowing the exact location, I would assume.

Q. The minutes reflect that the school house and lot on the southeast corner of Long and Third Streets —

A. Yeah.

Q. — be appropriated for the use of the colored children for schools; is that correct?

A. That's right.

Q. Dr. Loving voted no, did he not, he thought the site was unhealthy?

A. Yes.

Q. And they named the school after him; is that right?

A. That's right.

Q. Your report at page 17 indicates a recommendation by the Superintendent of Schools as reflected in the Ohio State Journal of November 20, 1872. What was that recommendation?

A. The establishment of a school at the Montgomery [1694A] School House who live a great distance from the Loving School.

[1695] Q. Did you indicate what happened with that recommendation?

A. An exasperating legal quarrel arose with a man who claimed ownership of the lot on which the Montgomery Building stood. The difficulty grew out of mistakes in deeds involved in a prior exchange of lots. Eight years passed before the argument was settled, and the school for Negro children was not opened at the Montgomery School until April 1, 1880.

Q. All right, there was a protest in 1876 on the part of white parents, if you will turn to page 19 and read the section about protesting Negroes in East Friend Street School.

A. It was not unusual for white parents to object to the admittance of Negroes to their children's schools. In 1876 when the mixed school question arose, there were instances of parents protesting such action on the part of the Board of Education. The following letter which was published in the October 3, 1876 Ohio State Journal is typical of the protest. Do you want me to read that?

Q. Yes. This was addressed to the Superintendent of Schools, was it not?

A. That is correct.

"Dear Sir: We the undersigned citizens and parents who send children to the East Friend Street School [1696] respectfully remonstrate against the introduction of colored children into said school building and ask the Board of Education, if need be, to direct that said colored children be withdrawn and provided with school privileges by themselves. We further request that early action be had in the matter."

Then there is an insertion of the names on the petition.

On the motion, the petition was referred to the committee on teachers.

Q. All right, if you will refer to the section entitled "Negroes Are Divided on Mixed School Legislation; Most For It," refers, does it not, to the legislation proposed in 1878 to strike out the color line?

A. That's right.

Q. If you will look at page 20, it refers, does it not, to a meeting at the Second Baptist Church, representatives of the black community, does it not?

A. That's correct.

Q. Does it set forth at page 20 a resolution submitted I suppose at that meeting and then sent on to the legislature?

A. That's correct.

Q. Would you read the second paragraph of the resolution?

[1697] A. "Resolved, that we, the colored people of Columbus, are emphatically and irrevocably in favor of the change, for the double reason that separate schools are a grievous injury to the educational interests of the colored children, and a needless oppression of the too heavily burdened taxpayer; and this detriment to the educational advancement of colored children under the present system is serious, and more so than a generous public would" — I am not sure about the next word.

Q. "brook."

A. "... brook if honestly made aware of it and the additional cost to the taxpayer to maintain it, and in the present paralyzed condition of the industries of the State, and the conviction of the people that they are overtaxed, were those having in charge the education of the children, to incur the expense necessary to put colored children in separate schools or even an approximate footing with the white children, the separate or present system would not last a day."

Q. The next paragraph.

A. "Resolved, that in many localities where colored children are too few to form a separate school, they are kept out of school altogether, and, except in a few localities, they are entirely excluded from high school privileges all over the State; the objection to proposed [1698] change

that it would turn five or six-hundred colored teachers out of employment, proceeds on the supposition that legislation must provide all trades or professions employment. Certainly, if colored school teachers or any teachers, why not all trades and occupations? Worse.

[1699] Q. I believe that's far enough, unless you think there's something that makes that incomplete?

A. No.

Q. You've just read that black children were excluded from high schools all over the state. You have a section beginning at Page 26 wherein you named the first negro graduates from high school in Columbus.

Would you read the beginning of that section?

A. In 1878, Miss Mary E. Knight completed the high school course and became the first negro in Columbus to earn this distinction.

* * * *

[1701] Q. All right. There is a reference, I believe for the first time in here, to the Columbus Dispatch in the report at Page 28. It refers to two stories that appeared in the Columbus newspaper on September 3, 1878.

Would you read the report from the Columbus Dispatch?

A. P. Skury, J. Johnson and Daniel Trent, colored citizens and taxpayers, as alleged in their communications, stated that they lived north of Long and east of 20th Street and desired to send their children to Douglas Street school claiming that Loving School was two miles away, too far for their little folks to walk, and not as good [1701A] a school as provided for white children. They also stated that they sent their children to Douglas Street School when it opened last year, and they were sent away.

[1702] This was never reported to the Board. These persons have been offered streetcar fare, street is in parentheses, on the Long Street Road in all kinds of weather

during school term, but refused to accept it. They are near the street railway and would have to cross it to get to the Douglas building. The matter was referred.

Q. All right. You also quoted from the Columbus Statesman. Was that a newspaper in general circulation at that time?

A. That is correct. It went by two or three names, the Ohio Statesman, the Columbus Statesman and the Central Ohio Statesman.

Q. All right. Would you read just the first paragraph of that?

A. School privileges for colored children.

A communication was read from P. Scurry, J. Johnson and Daniel Trent, the same trio that we referred to, asking that the children of colored parents be admitted to the Douglas Street School. The petitioner recited that there was plenty of room in that building, yet notwithstanding this, the colored children were compelled to walk, some of them as far as two miles. Last year, their children had presented themselves at the Douglas Street building but were refused permission to enter, even after the fact that it was advertised in the papers that all were to be admitted [1703] there. It was a hardship, the petitioners said, to compel their children to walk all the way to Loving School when the other was so much nearer their home. They therefore asked for some action on the premises.

On motion of Mr. Beck, the matter was referred to the Committee on teachers.

Do you want me to read the next, too?

Q. Yes, the next paragraph.

A. It is said that facilities have been provided for the colored children — there are three dots indicating that this is not a complete quote — but parents have failed to improve the opportunity offered. There are also buildings in the vicinity where they had lived owned by the Board and where the children could be accommodated so that it is unlikely another school will be opened.

Q. All right. There's reference to another site for a school operated by the Columbus Board of Education for black children, and the reference I make is in your report, page 31, indicates — if you go back to page 30 and begin with the sentence, "In 1879 it was alleged."

A. In 1879, it was alleged that the Fulton School building was, quote, in a crowded condition, end of quote, and the Board was faced with the problem. As a result, the Mt. Airy School, A-i-r-y, was created to serve both mulatto and white pupils.

[1704] Q. And the details were reported in the December 3, 1829, Ohio State Journal?

A. That's right.

Q. Would you read them, please?

[1705] Q. Would you read them, please?

A. "Mr. Beck, from the committee on rules and regulations, reported as follows on the resolution as to the admission of colored pupils in the schools:

"Whereas, the Fulton Street building are in a crowded condition and cannot accommodate more pupils without great inconvenience; therefore

"Resolved that the Committee on Sites together with the Superintendent be instructed to rent a room south of Town Street for the accommodation of the colored children, who live in said district, south of Town Street of the B, C and D Primary grades.

"Second — That a school for colored children of the same grades, east of Washington Avenue, be opened in Mt. Airy school building."

Q. All right.

A. The report was signed by all members of the committee.

• • • • •

[1706] Q. In 1880 Dr. Loving made his annual visit to the [1707] Loving School. I believe you have this under

the heading "Dr. Loving Cites Bad Conditions at Negro School?"

A. Yes.

Q. Would you read that section, beginning at the top of Page 33?

A. "On his annual visit to Loving School in 1880, Dr. Loving lamented the environment in which the Negro youngsters were schooled. 'It was a saloon-infested area, surrounded by such unhealthy moral atmosphere,' he contended."

"In his annual report to the board for that year, he noted:

"Gentlemen:

"Your committee beg leave to make the following report respecting our visits —

Q. This is addressed to the Honorable Board of Education, Columbus, Ohio; is that correct?

A. That's right.

Q. Go ahead.

A. Did you want me to proceed?

Q. Yes, please.

A. "Your committee beg leave to make the following report respecting our visits to the Loving School during the spring examinations: . . .

". . . It is certain that no school in the city is [1708] surrounded by such an unhealthy moral atmosphere as the Loving School."

It was the custom then, as now, for school board members to visit various schools. It was always an annual affair, and back in the 1880's.

Proceeding: "Saloons . . . lie on every hand and make it at once one of the worst places for a public school, in the city. This in connection with the poor architectural design of the building. There are no conveniences for teachers or pupils in the way of a washroom, and the crowding of the rooms with scholars. All these things sug-

gest the necessity of a change. We most respectfully ask your attention to these points, and your favorable consideration of the same . . ."

[1709] Q. All right. In 1881 did a delegation of Negro citizens approach the Board of Education with reference to requesting desegregation of the schools and consideration of that factor, particularly for the future development of new schools?

A. This is on page 35?

Q. 37 and at the top of 38.

A. Yes. Reverend Poindexter and a number of his Negro friends attended one of the Board of Education meetings in 1881 for the purpose of inducing the Board to integrate colored and white in all Columbus public schools and particularly those schools that were on the drawing board for future development.

Q. Would you say that has been a rather consistent request of representatives of the black community with respect to new construction and to desegregation of the schools in Columbus?

A. Yes.

Q. Over the years?

A. Yes.

Q. Starting as far back as — what was that date again?

A. Well, at this point, yes. I wouldn't go so far as to say that there was no — it was just a blanket deal.

Q. What was the date?

[1710] A. 1880. This has been the philosophy at least from 1880. That would be my opinion.

Q. If you would turn now to page 39 and refer to the discussion that took place in the Board of Education over the proposal to set up a separate school for colored youth in the Fulton Street School, would you read the statement of Mr. I believe it is Schuller, S-c-h-u-l-l-e-r?

A. "The undersigned, a member of the committee on sites, to which was referred the practicability of locating

a separate school for the colored children in the southeastern part of the city, begs leave to present the following minority report: Although in theory and principle in full accord with the report of the majority, yet he considers it unwise to unite at present the two antipodal races in so-called mixed schools, for by the prevalence of a certain prejudice that cannot be wiped out by legislation, in such schools the colored children will be exposed to humiliation and insults, the results of which would be worse than continuing separate schools, namely non-attendance. Of this prejudice the colored people themselves are well aware and are unwilling to suffer thereby, as is shown by the fact that when left at their option, they continue to maintain with great sacrifices separate colored churches, with preachers of their own color, and to unite in separate colored lodges and societies, and even more than that, moved [1711] by selfishness and not by their avowed principles, some colored men draw a color line and deny to men of their own race the same privileges they extend to the white. An instance of this kind occurred but a few years ago in a barber shop held by a colored man in our city.

"The law also takes cognizance of this question and prohibits the intermarriage of white and black persons. Parenthetically, see Revised Statutes of Ohio so and so.

"In view of these facts, the undersigned considers the Board of Education justified to establish separate schools for colored children and recommends that the frame building on the Fulton Street lot be used as a school house for colored children in that section of the city. As the building is in good condition and the grounds are large, no expenditure of money would be involved.

"Respectfully submitted, J. B. Schueller."

Q. All right, the next section of your study — let me go back. I believe the proposal with respect to the Fulton Street School was not adopted, was tabled; is that correct?

A. Yes.

Q. The next section is headed "Attempt to Assign Negro Students to Districts in Which They Live Fails." Would you read the questions that were posed at the Board meeting in 1891?

[1711A] A. These questions were raised at the Board meeting in 1881, but none of them were resolved.

[1712] Q. I believe the questions come first.

A. How do you require students to attend the school in the respective districts in which they live? How many of our schools should be integrated and should the whole city compose the Loving School District as far as the negro students are concerned?

These questions were raised at board meeting in 1881, but none of them were resolved. The method of the board — Shall I proceed?

Q. No. If you would just turn now to the actual report of excerpts from the board minutes, the statement of the board treasurer.

A. Did you want the resolution read, Mr. Lucas?

Q. No. Just read the statement of the board treasurer and then Mr. Loving's statement.

A. Resolved that the Superintendent of Instruction be and he is ordered to require —

Q. No, no. Just read the statement of the board treasurer. It appears — I think it is the fifth paragraph down.

A. This is on 41, isn't it?

Q. Yes. If you think it is incomplete without reading the resolution, please feel free to do so.

A. Well, there is a little contention here among board members. Maybe I better read the whole of it.

[1713] Resolved that the Superintendent of Instruction be and he is ordered to require the school children that may be enrolled irrespective of color or race to attend school in the respective district in which they reside.

Mr. Jones — Now, I am not sure who Mr. Jones is. I don't think he was a board member. Mr. Jones said some provision must be made for colored children, the board having refused to furnish a building in the south end.

There are many colored children there that are deprived of the school privilege. It is not legal and it is not right that such a state of things should exist. The question must be met, and let us meet it now.

The resolution means equal school privilege for all, a mere guarantee of the legal right of a certain race.

Now, Mr. Neil thought the resolution would break down the Loving School. Mr. Neil was a member of the board. I can't remember the gentleman's name, whether he was a member of the board at that time or not.

Mr. Schueller, another member, was in favor of the resolution. He wanted mixed schools all over the city and not in one part.

Mr. Corzilius, the board treasurer, asked how much territory the special district, the Loving School, contained. Mr. Loving stated the whole city composed the Loving School District.

[1714] Mr. Stewart said — I think he was a board member also — that he did not think that the adoption of the resolution would abolish the colored school. The motion, however, was lost.

Q. Would you read the section on Page 42, "Negro Children Denied Education at Sullivant School — Parent Protests"?

A. Tradition dictated that all negro children attend Loving School regardless of where the child lived. As late as 1881 when the color line was supposedly broken in the public schools of the city, there were many instances in which negro children were denied admittance to mixed schools.

A report published in the September 6, 1881 issue of the Ohio State Journal was typical. Did you want me to read that?

Q. Yes.

A. Mr. Stewart presented the following petition:

"Gentlemen:

"I am a citizen of the United States of the State of Ohio, resident of the 10th Ward, City of Columbus, Franklin County, Ohio. I sent my children, aged respectively 9, 11 and 13 years to the Sullivant School September 5, 1881, the school to which my white neighbors send their children, and they were denied admittance and told by the principal that they must go to the Loving School.

[1715] I object to this as discrimination which involves oppression and violates the Constitution of the United States. I understand it to be the right of my children to attend school in their own proper districts and demand of you gentlemen sworn to do justice to all, irrespective of color or race, that you maintain my children in the right of schooling. Will you do my children justice, or shall I be compelled to secure it as the end of a law suit?

I petition justice. I demand justice.

It is signed by Willis Mitchell.

[1716] Q. Looking at page 43, does it indicate that there was a motion that it be referred to the Committee on Teachers?

A. That's correct.

Q. And then recites some argument by board members?

A. Yes.

Q. And I believe there was a motion offered in substitution for the resolution; is that correct?

A. That's correct.

Q. What was that?

A. It was also referred.

Q. Was the motion to admit Mr. Mitchell's children to the Sullivant Building?

A. Yes.

Q. And was it objected to?

A. That's right.

Q. And referred to the Committee on Teachers; is that right? Isn't that what it says, that it was referred to the Committee on Teachers?

A. Yes, it was referred to the Committee on Teachers.

Q. And did there come a time in your study when the Loving School was closed and the children reassigned to other schools in the district?

A. There was, but I can't document that offhand.

Q. All right. Would you refer to your report, [1717] page 44?

A. 44. "During the summer of 1881, Mr. Twiss" — Mr. Twiss was a high school principal — "surprised the Board by suggesting that the Loving School property be sold. Almost two months later, in late September, 1882, the Board initiated action to close the school.

"Records reveal that from this time until the selling of the property, attendance progressively became worse at the Loving School.

[1718] Q. Do the minutes go on to reflect that the school was sold and closed?

A. I assume that it did, but I —

Q. I believe it appears at Page 45.

A. Forty-five.

Q. Just read it to yourself, and if that's correct —

A. Yes.

.

[1719] Q. Well, it simply skips over, and you have a section that begins, "Attempt to Annul Mixed Schools and Set Up Separate Schools for Negroes Fails."

A. Yes, I see.

Q. Obviously, as I've indicated here, some members of the Board of Education made efforts to re-establish

separate negro schools in Columbus, and in March, 1883, for example, board member Gunning, of the Douglass School Committee, introduced a resolution for the readoption of separate schools for colored children.

His colleagues refused to support him, however, so the measure failed in committee.

I think that answers the question.

Q. All right. I show you a document which has been marked Original Plaintiffs' Exhibit 51-E-9.

I don't believe this very bulky exhibit has been copied. It has been available, and Mr. Porter copied some sections. I don't know whether he copied this.

There's a notation at the top, "From Historian's Records" and I believe that handwriting is Mr. Montgomery's?

A. Yes.

[1720] Q. Are you familiar with that?

A. This is mine.

Q. All right. Would you read that, please? Read it aloud, if you will.

A. This is from the Columbus Dispatch:

Members of the Board of Education who favored a separate school building for colored children — I'm not sure of that next, sec, is that sic? Is that supposed to be —

Q. What's the title on that?

A. It's "Clever Scheme to Separate Racism in Columbus Schools."

Q. All right.

A. Would you indicate what this is? Is that s-i —?

Q. It says — looks like see to me, but your opinion is as good or better than mine.

A. Yea. Well, the heading on this is, "Clever Scheme to Separate Racism in Columbus Schools."

Members of the Board of Education who favored a separate school building for colored children — now, that next is — I don't know. That's see. I think we both agree it's see. It might be seemed. Seemed, could that be right?

seemed to have stolen the march on those members who favored a continued mixture of the races, announced [1721] the December 7, 1907 Columbus Dispatch. The Law Department of the City rendered a decision to the effect that the board had no legal right to establish a separate school for colored children, then, "but there will be one, the newspaper said, and "again, and no law will be violated." That's the end of the quotes.

* * * * *

[1879] Q. I am going to refer you now to the minutes of the Board of November 11, 1907, page 343 marked Plaintiffs' Exhibit — original Plaintiffs' Exhibit 51-E-7A. This is a very poor copy, so you will have to do the best you can.

A. My eyes aren't too keen either.

Q. First of all, sir, do you recognize that as a form in which minutes were kept in that period?

A. This is a form used in the Board minutes of that period as far as I can ascertain.

Q. Okay, and they were kept in handwritten form at that time?

A. That is correct.

Q. Can you locate in those minutes the motion of the Sites Committee for the purchase of certain lots, certain pieces of real estate?

A. Yes, I can.

Q. Can you read the motion?

* * * * *

[1881] A. This is a poor, poor copy, or my eyes are very, very poor, Mr. Lucas.

Q. Does it say Chairman of the Sites Committee, Board of Education?

A. Yes. My Dear Sir: I herewith submit to you — you will have to help me. Proposition on Lot Nos. 6 and 8.

Submit it to the Judge, would you please, Mr. Lucas, and see if it is legible.

Q. Perhaps I can help you with it. If you feel I am less than helpful, please say so.

It looks like Mr. Morrison's subdivision to be considered. Let me ask you if this is clear. I think I can read that, but perhaps —

A. Size of lot, 105 by 140, line on the north side of Hawthorne. The item above it, Lots 6, 7 and 8, it appears. Can you tell me for this? Can you decipher this for me, please?

Q. That's the \$1,300.

A. I mean above my fingers.

Q. William Morrison Subdivision is what it looks like to me, but I don't know.

[1882] Q. The map does show the location, does it not?

A. Yes, it shows the location.

Q. That's much easier to read. What is the location of those lots? Just give us the streets, the boundaries.

A. Bounded by Champion Avenue on the east, alley on north, Hawthorne Street on south. What is this, do you know?

Q. It looks like an alley.

A. Alley on the west. On motion of Mr. Thompson — your eyes are better than mine. I can't see that. I am sorry.

[1883] Q. That's all right. This one is particularly bad.

MR. LUCAS: Your Honor, we will propose on this particular document to type up what we think it says and submit it to Mr. Porter. It is quite a visual problem.

THE COURT: Very well.

Q. But the lots that are marked out on the map are six, seven and eight?

A. That's correct. I can see that.

Q. Thank you, sir.

A. Thank you.

Q. Are you familiar with the Ohio State Journal?

A. I am.

Q. All right. I show you what's marked as Original Plaintiffs' Exhibit 51-E-7B from the Ohio State Journal, Tuesday morning, November 12, 1907, an article entitled "New School Site to be Purchased." Would you read that, including the heading?

A. New School Site to be purchased. The Board of Education plans for a building on Hawthorne Avenue near Champion. Janitors want pay raise, \$10 a month. Obviously that's not the same story.

Q. Would you read just the first part?

A. The site for what will be the best equipped school in Columbus will be purchased from J. S. Starbuck within a few days by the Board of Education. The school will be [1884] located on the north side of Hawthorne Avenue between Champion Avenue and Mingo Street, I assume that it. Is that Mingo?

Q. M-i-n-c-k is what it appears to be.

A. Minck Street, perhaps.

Q. The site consists —

A. The site consists of three lots which have a frontage of 105 feet on Hawthorne Avenue and a depth of 140 feet.

[1885] A. (Continuing) On recommendation of the —
Q. Finance and building.

A. — finance and building committees at the meeting of the Board last night, instructions were given for the purchase of the site, the consideration to be \$1300. The erection of the building will be begun as soon as possible.

Q. Okay. Thank you.

A. I know the problems you have in making copies from newspapers. I've done so many of them.

Q. All right. I show you Original Plaintiffs' 51-E-23, a page from the minutes of the Board, dated August 31, 1908, page 587, and ask you to look at the second to the

last paragraph from the bottom. Let's see if you can read it, if you can hold it in the light?

A. Mis. - - what is that, Wood? Mr. Wood or H. W. Wood? H. V. Wood - I'll take a guess at it.

Q. All right.

A. - moved to name the proposed building at the corner of Champion Avenue and Hawthorne Avenue, the Champion Avenue School which -

Q. Was agreed -

A. - which was agreed to, I assume that is.

Q. All right. Thank you.

I'll show you Exhibit 51-E-24A, Original Plaintiffs', and I have two copies, one of them an excerpt from the [1886] historian's records, and the balance of the article from the newspaper records.

Since it's easier to read the copy - the excerpt from your records, would you read that, please?

A. This is date line, January 6, 1910, the Columbus - no, the Ohio State Journal.

Negroes to have fine new school head. Champion Avenue structure will be for use of colored children, sub-head.

Expected to provide places for ten teachers and a janitor of that race, the second subhead.

Although no definite statement has been made by members of the Board of Education, the east side people believe the new school building now in the course of construction on Champion Avenue near Long Street will be used exclusively for colored children with colored teachers and jobs. The colored population in that section is large and it is likely that all the scholars in the new building, which is to have ten rooms, will be of that race. Structure is located within three squares of the 23rd Street School. It is just under roof and it will not be ready for occupancy until next September.

At present, there are only six colored teachers employed in the Schools. There are four colored janitors. It is proposed to have Negro care for the Champion Avenue [1887] school.

The colored population of the city is estimated to be between 28,000 and 30,000.

Q. All right. If you can read from the copy from the journal, page 10, which, correct me if I'm wrong, appears to be simply the balance of that article?

A. Yes, it is.

Q. Can you try and read from "Opposition in the Past"?

A. All right. Strong sentiment has been worked - worked up. Now, I've read it - worked up in something - the northwest section of the city. Would that be correct?

A. Yes.

A. Can you make -

Q. Against.

A. - against segregation of pupils -

Q. Whenever.

A. - whenever the subject has been - is that remembered?

Q. Mentioned.

[1888] A. - mentioned. There is some colored leaders, however, who have deprecated opposition to a separate school for their children, I suppose it is.

Q. That's "colored" up there?

A. For colored children.

The next line's almost deleted. I can't make out the beginning there. You have to drop down. -

Q. You have to get to the lights, that's right. "They point out that there is -"

A. They point out that there is no opportunity of employment of colored -

Q. Girls.

A. - girls - something about on graduation, I can see.

Q. Who are graduates.

A. — who are graduates from schools and —

Q. Colleges.

A. — and colleges. Employment in stores — is that institutions or what is that word?

Q. In factories, I believe.

A. — in factories is limited to them.

Q. Are —

A. Is that limited?

Q. Is barred to them

A. Is barred to them, because certain entertainment,

[1889] I get that.

Q. A feeling entertained against.

A. — a feeling entertained against such — something about the white employees.

Q. Associations.

A. — associations by white employees. They would either enter —

Q. Excuse me, but they must either.

A. — they must either enter domestics — domestic employment or remain idle at home.

Q. According.

A. According to those — What's that line, colored leaders who are —

Q. Entering.

A. Who are entering no objection to the operation of a school — what's that word?

Q. Exclusively.

A. — exclusively for the colored children. It is the —

Q. It is their argument.

A. It is their argument that —

Q. Desirable.

A. — desirable teaching —

Q. Positions.

A. — positions are to be provided for more colored —

[1889A] Q. Can be provided for more colored girls if colored schools are established.

A. Um-hmm.

[1890] Q. Do you agree with that? Don't let me put any words in your mouth on that.

A. Well, it looks like it might be there. I guess I'll have to go back to school again and learn to read, Mr. Lucas.

Q. I think we both may need new eyes.

A. Is there some more there you want me to — I think this is more legible, maybe.

Q. It's down here (indicating).

A. Down here (indicating).

Law against segregation. This is a state law — there is a state law against segregation, but it is understood that — would you like for the Judge to look at this?

Q. I don't know if he'd have any better luck than we would. That's strict adherence.

A. Strict adherence.

Q. To this law. Strict —

A. Strict adherence to this law.

Q. Can be avoided.

A. Can be avoided if — something about —

Q. Schools.

A. — school are — is that constructed?

Q. Yes.

A. — constructed —

[1891] Q. At such colored pupils —

A. Such colored pupils as wish are permitted to attend. White — that doesn't make sense.

Q. White children could not be barred from such schools if their parents sought to send them; is that correct?

A. That's correct, as far as I can ascertain.

• • • • •

KARL TAEUBER
called as a witness on behalf of the
Intervening Plaintiffs, being first
duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. LUCAS

[1729] Q. [By Mr. Lucas] Would you give us your full name and occupation, please?

A. Yes, my name is Karl Taeuber. I am a Professor of Sociology at the University of Wisconsin.

.

[1730] Q. Would you give us some of your major population and migration studies, publications in this area?

A. Yes. I am co-author of two books. One I forget the exact title. One of them I recall is *Negroes in Cities* with a subtitle *Residential Segregation and Neighborhood Change*.

[1731] The migration book, the title is simply *Migration in the United States, An Analysis of Residence Histories*.

In addition, there are a number of journal articles, chapters in books.

Q. Have you done particular studies in the area of racial concentration, population and the changes in that concentration?

A. Yes, I have, both in the books and in many of the individual articles and chapters.

Q. All right, can you list some of those for us, please?

A. Yes. In the American Journal of Sociology there was an article in 1965 on the changing character of Negro migration. There are a number of articles on residential segregation, one with the title, Residential Segregation in Scientific American in 1965. Population Trends and Residential Segregation Since 1960 in the Journal of Science. The Effect of Negro Distribution on Racial Residential Segregation in the Urban Affairs Quarterly. Negro population in Housing, a chapter in a book in 1969.

[1732] A. (Continuing) Indexes of racial residential segregation for 109 cities in the United States, 1940 to 1970, published last year, the black population of the United States, a chapter forth coming this year in a publication called "The Black American Reference Book."

Q. Have you done studies with regard to the relationship between housing segregation and school segregation?

A. Yes, I have.

Q. Can you identify some of those, please?

A. Yes. There is an article in the Wayne Law Review which I wrote called "Demographic Perspectives on Housing and School Segregation." There is testimony I prepared for what was called the Mondale Committee, a Senate-select committee, I believe, on equal educational community in the late 1960s or around 1970 or '71, I believe, and another article, "The Demographic Context of Metropolitan Education," published in 1967, and —

Q. Was that revised and reprinted at a later day?

A. Yes, that appeared as a chapter in a book of a couple of years later.

I also have been involved in research project at the Institute for Research on Poverty at the University of Wisconsin concerned with the relationship between residential and school segregation.

Q. Have you also served as a consultant with the U.S. [1733] Commission of Civil Rights?

A. Yes, I did, in the 1960s and on occasion, more recently.

Q. All right. Do you serve as a consultant from time to time with the U.S. Bureau of Census?

A. Yes, I do.

Q. And in what particular areas have you consulted with the Census Bureau?

A. In connection with the 1970 Census, I was asked to consult their program of publications concerning racial and ethnic information.

Currently, I'm consulting with them about a possible project for release of some census data from earlier censuses to permit more historical analysis of similar topics.

.

[1740] Q. [By Mr. Lucas] Dr. Taeuber, in your book *Negroes in the Cities*, you have developed and utilized what you called an index of segregation. Would you describe to the Court what exactly that index is, and what does it purport to show?

A. Yes. The index was applied to the census data in an effort to make possible certain kinds of formal comparisons of trends in racial residential segregation. Previous work had made use of maps shading in blocks or census tracts to show the racial composition of the cities, [1741] the distribution of black population as compared to the distribution of white population. Such maps were used in an attempt to compare one city with another, but this depends on visual interpretation of the degree of concentration shown by one map versus another.

What I attempted to do was to provide a summary statistical index of the degree of segregation. Now, this index is like a scale that goes from 0 to 100 where zero represents the situation of no segregation by race. No segregation means in the census data that every single city block would have the same percentage of whites and blacks. If there are 20-percent blacks in the city, then every block would have 20-percent black, 80-percent white. That would be zero segregation, and the index value would be zero.

If every city block is completely occupied by black families or completely occupied by white families, that would be complete segregation. The index value would be 100.

Measures in between 0 and 100 were obtained for every city. No city is completely segregated. No city is completely unsegregated.

The specific formula for calculating the index determines the percentage of the black population or of the white population that would have to be relocated in order to obtain a zero segregation level, so that an index of 90 for [1742] a city would mean that there is a 90-percent dissimilarity in the way blacks and whites are distributed and that to transfer to the desegregated pattern would require moving the 90 percent say of the blocks that are in heavily black residential blocks into blocks that are predominantly white.

As I say, this is a statistical technique for calculating that percentage. The index then refers to the system, the actual observed system of residential location of blacks and whites in a city for a given area.

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[1744] Q. [By Mr. Lucas] Did you calculate the index of residential segregation in the City of Columbus for the years 1940, '50, '60, and '70?

A. Yes, I did.

Q. Can you tell us what index you determined the degree of segregation in housing in Columbus?

A. Yes. For 1940 for the City of Columbus, the index was 87.1. For 1950 the index was 88.9. For 1960, 85.3. For 1970, 84.1.

Q. Was your comparison between white and non-white [1745] in those figures?

A. Yes. All of those figures compare the distribution of white households with that of non-white households. That is the only way, the only racial division that was given in the Census for 1940, 1950 and 1960.

Q. All right. Was there a more detailed breakout for the 1970 Census with respect to race and other minority groups?

A. Yes. For 1970 the Census provided additional information for city blocks on a special census tape, and

it is possible to obtain these tapes and use one's own computers to obtain more detailed information.

In this case, in addition to the division between whites and non-whites, the non-whites can be divided into blacks and other races. The census terminology "other races" means principally Japanese, Chinese, Filipino, American Indian.

Q. Spanish?

A. No Spanish unless they happen to identify a Negro say as some Puerto Ricans, some of the Caribbean peoples do, specifically Spanish are classified under whites. It is a very special kind of definition that the Census Bureau has been using for many years. They call it race, but it is basically a mixture of color and origin. [1746]

Q. All right. Did you calculate the index for white and black in the index of residential segregation in the City of Columbus for 1970?

A. Yes, I did. That value was 86.2.

Q. I believe the figure when you simply used white and non-white was 84.1?

A. Yes. This is the typical pattern that when the other races' population is excluded and we consider only blacks, not the total non-whites, then we typically find a somewhat higher degree of segregation. This is true in Columbus and in virtually every other city. In fact, in every other city for which I have done this calculation the index is higher comparing only whites and Negroes than when we compare whites and the combination of Negroes plus other races.

.

[1747] Q. All right. Before we get to the school segregation, can you tell the Court what type of analysis your research has led you to with respect to determining what difference, if any, there may be between the dispersal pattern of ethnic groups in communities as opposed to the dispersal or non-dispersal pattern of black citizens in communities in the United States?

A. Yes. I made a number of studies using the census data which, in addition to providing information on whites, blacks and other races, also provides information on persons classified by the country in which they were born or the country in which their parents were born so that we can obtain from the Census that information on a number of ethnic groups from various European origins, Italians, Germans, Poles, Mexicans, and the like.

In addition, there is information for certain states and cities on either persons of Spanish surname or [1748] persons who speak Spanish in the home. The Census Bureau uses several ways of trying to identify the Spanish population.

Now, for each of these groups, there is information on a census tract basis so that the distribution of these groups among residential neighborhoods may be compared and a segregation index may be calculated which compares, for instance, the pattern of distribution of persons of English origin with the total group of say native whites or total group of everybody else in the population. These comparisons show that currently, say 1960, 1970, the segregation indexes, residential patterns for each of these ethnic groups other than the black population, these groups are less segregated residentially from the native white population or from each other than are the blacks. Now, the Spanish origin populations are typically white segregated, but not quite as segregated as the blacks. The populations of the European groups, European origin, are much less segregated. The indexes may be 20 or 30 or 40. For black-white segregation, the indexes are typically 80 or 90. There is some difference from one time period to another in the character of these comparisons.

Q. Does it change from generation to generation?

A. Yes, it does. The European groups during the periods of heavy immigration in the late 19th Century and the [1749] period 1900, 1910, 1920, were more

segregated one from another and from the native population than they were subsequently. For each of these groups of European origin during the period of mass migration of the group, a particular group, say the Southern Europeans in the early part of this century or the Northern and Western Europeans in the last decade of the 19th Century, during each period of mass migration, the measures of residential segregation were initially high but declined census by census to these lower levels.

[1750] A. (Continuing) Now, back in 1900 or 1910, the black population, which was not represented to a great degree in most cities in the country, was segregated residentially pretty much to the same degree statistically as were these European ethnic groups, but in subsequent years, the European measures declined, the black-white segregation measures increased. So that during the period of rapid black movement, in this case, not from other countries, but from America's rural areas to its cities, the black urban segregation increased, and as I mentioned, even by 1970, is still at high levels, higher levels than were observed for the ethnic segregation of European groups, even back in the turn of the century period.

Q. Dr. Taeuber, in your work in sociology, have you run into the — I don't know if attitude is the proper word, but shall we say the popular beliefs that ethnic neighborhoods are homogeneous in certain ways and that this sort of ethnic Italian neighborhood, Jewish neighborhood, and so forth, the same phenomenon that is observed when you look at the black community?

A. Yes. There has been considerable discussion in sociological writings of these concepts and of the comparison between blacks and the earlier immigrant groups.

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[1751] Q. Dr. Taeuber, directing you to your earlier testimony that you've given, what is the difference between the black ethnic neighborhood and the Italian or

other European ethnic group neighborhoods discussed in the popular literature and is analyzed by the reality of the census data?

A. Well, I'll concentrate on the reality of the census data which shows that, first, the degree of segregation of these ethnic groups was never as great in the past as has been in the case per black-white segregation in the cities of the United States during the last 30 years. In other words, the indexes at their peak for these ethnic groups were perhaps around 50 as compared to measures of 80 and above which commonly occur for black-white racial segregation.

[1752] This indicates that although there were Little Italys, German communities, Chinatown, Jewish neighborhoods, Catholic neighborhoods and the like, these neighborhoods, for the most part, were neither completely homogeneous — in other words, within these neighborhoods there may have been — there is often a concentration of one kind of population, but it is not complete. Many people with other characteristics also live in these neighborhoods.

In addition, many of the people with those characteristics, many Germans or Jews or Catholics or Italians or Chinese, live in other parts of the city, so that the segregation in the middle, indexes of around 50, rather than close to the 100 level which occurs if the areas are completely one group or completely another group.

Now, the change through time for these groups other than the black population has been for a high degree of dispersal so that many of the second generation, the third generation, even the first generation as they live in the city longer move away from these identified areas of heavy concentration into areas that are much more mixed. These cities have many areas where there's some, say, overrepresentation of Italians or Catholics or Jews. Perhaps a group is 10 percent of the total population, and in some

census tracts some neighborhoods would have 20 percent, others would have 5 percent.

[1753] In the case of blacks and whites, it is common in every city in this country to find areas that are 99 percent and 100 percent of one race and, of course, zero percent of the other.

Q. Dr. Taeuber, the explanations, two explanations which have been suggested for residential segregation, and I believe you've just touched on one of them in part, have to do with questions of choice and economics, and if I may articulate, the choice is further than you've already discussed it. Have you had occasion to examine the factor of choice, that is, all blacks like to live together, as to whether or not there is evidence for or against this proposition?

A. Yes, I have.

Q. And what have you looked at, what types of information have you examined, and if you would give us your conclusions from that examination?

A. I would say there are three types of information.

One, to follow up on the comment on ethnic groups, looks at what happened to these groups, say Italian origins, in relation to what those groups were seeking at the time. In other words, there were, say, churches where the European language was spoken, there were neighborhood stores with a particular kind of food and with people who spoke the language, there were these communities, the little Italys, [1754] that sort of area.

There were efforts on the part of the established members of these groups, the church leaders, the business leaders, to try and sustain this ethnic identity and the ethnic character of the neighborhood, and yet, the people dispersed, as I have described, so that the cultural tradition, the religious tradition, the language traditions, the patterns of life did not lead to a complete and a continuing residential concentration. There was a great deal of residential dispersal despite these other factors.

[1755] In the case of the black population, even back in 1910, 1920, 1930, as the black populations were growing, all of the major, organized groups were—nearly all of the major, organized groups were pleading for more residential dispersal for less concentration of black population.

They were concerned with the patterns of discrimination attempting to overcome them. There was not the same focus that there had been in these ethnic communities for trying to keep people attached to the community.

There were attempts to diminish this sort of inward turning focus of the group upon itself.

This suggests to me that, in the case of choice, that the black groups, as indicated in their organized expressions, were very concerned about this concentration and seeking to overcome it.

It was not a free choice. It was viewed as one imposed upon them at the time, so this is one kind of evidence.

Another kind of evidence is based on surveys by the Gallup Poll, the Lewis-Harris Poll, the National Opinion Research Center at the University of Chicago, the Survey Research Center at the University of Michigan. Many of these have been summarized in an article by Thomas Pettigrew in a publication of the National Academy of Sciences about three years ago.

[1756] These show that the majority of black population, when asked what kind of neighborhood they wanted to live in, preferred one that is racially mixed. They do not express a preference, for the most part, for living in an all white area. They do not express a preference for living in an all white area. This was true in the 1950's. It was true in the 1960's. It was true in the early 1970's.

So this again is a measure of choice by going out and asking people what do they want?

A third kind of measure comes out of the statistical information on who actually lives where, and I have asked this for a number of cities and find that the financially better off black population in cities leads the movement

away from the concentrated black areas. The better off, economically better off blacks, the better educated blacks, are more likely to live in areas that are somewhat racially mixed and that are at the fringes or beyond the heavily black areas that are found in all of our cities.

This suggests that these people who have economic alternatives available to them seek to avoid living in completely 100 percent black areas.

[1757] There is a whole set of corresponding evidence by economists and others that there are pretty much — there is a black housing market that functions very much like the white housing market in that the well-off people within the black population seek better housing, they seek to buy home owned housing to get more space, to get single family housing, to move away from the congested areas in the same way that the white population does, but this seems to occur largely within a constrained area so that there is an ocean of a dual housing market where blacks are making the same kinds of choices but with constraints imposed upon that choice.

Q. Have you compared the data and the degree of dispersal of upper economic blacks versus the degree of dispersal of upper economic whites to lower income whites?

A. Yes. I made a calculation from the 1970 Census data for the Columbus area to indicate the way in which this general pattern applies within the local community.

Q. Let me ask you first, Dr. Taeuber, does this particular facet hinge on both the choice question and the question of economics as a determination of the residence?

A. Yes, it also — in talking about an actual pattern, one also gets into the third kind of factor that you didn't mention, which is the discrimination one. Choice and economics and discrimination affect all of the observed [1758] distributions, so the attempt to talk about them separately is one of these attempts to analytically circumscribe

the world, but one can't help talking about all three of them at once.

Q. You say you examined certain census data with respect to the stature.

A. Yes.

Q. What did you look at for your source of information?

A. I used the 1970 Census Tract Volume for Columbus, Ohio, published by the Bureau of the Census. Within that I used the tables that show families by race, white and black, and by income. The census question is: What income — what was your total family income in 1969?

And I also then looked at how many families of each race, of each economic level live in the city and how many live elsewhere in Franklin County. I sort of lumped that together as a shorthand way of calling the suburbs.

Q. What was the result of your examination?

A. Okay. Among whites, even at the very low income levels, white families with economics less than a thousand dollars a year or with less than three thousand, four thousand, five thousand dollars, white families with those low incomes, about 25 to 30 percent of the Franklin County total lived outside of the City of Columbus.

Now, the percentage living outside the City [1759] increased as the income moved up to five thousand, six thousand, up to ten thousand and over, so that for ten thousand and over, something like 47 percent of the families with that income level lived outside of the city, so that at the high income levels it was nearly half of the families live in the city, half in the suburbs. At the lower income levels, it was more like one-fourth or one-third.

Now, for black families, the greatest proportion living in the suburbs was found for those with the highest economics, ten thousand and over, but this percentage was six percent, so that the black families with the highest economics were less than one-fourth as likely to be found

in the suburbs that were white families with the lowest levels of income, and for black families with low income, this ranged down to about one percent, so for black families, additional income increased families that lived in the suburbs, but the maximum was only six percent at the upper income level identified in the census table.

This shows — in light of the underlying question, “What does it show about choice and economics,” it shows that in each group, the people with greater economic ability are more likely to live in the suburbs, which in general, in Columbus and in other cities, are regarded as having more desirable housing, but that the degree to which [1760] this pattern of getting into the suburbs obtains for blacks is quite different than for whites, so some of the choice factors are similar, some of the economic factors are similar within the group, but when you make comparisons of whites with high income, then we find radical differences. Blacks with low income and whites with low income do not live within the same places. Whites are more likely to live in the suburbs.

Q. Within the City of Columbus, did you examine the pattern of residents of blacks to determine whether or not it was concentrated in certain tracts or dispersed other than the use of the index itself?

A. Yes. Well, I looked through the Census Volume myself and I also examined a number of maps such as the one that appears here in Court. I don’t know if this has an exhibit number, but —

Q. All right. Is the pattern of residents of black in Columbus similar to the pattern in other communities in terms of whether or not it is dispersed on a contiguous nature?

MR. PORTER: Objection.

THE COURT: Overruled.

A. Yes, it is similar in that the pattern is one of a high degree of concentration to certain areas that are almost

entirely black occupied and surrounding areas that taper off [1761] to some degree of racial mixture, and finally, large portions of the city that have virtually no black residents at all.

Q. All right. Turning now, Dr. Taeuber, to the — let’s go back again to the economic factors. Has there been research by other scholars as well as yourself into the question of whether or not the economic availability to black families determines their place of residence?

A. Yes, this has been looked at by many scholars in a number of separate studies.

Q. All right. And have they drawn conclusions from their studies that you’re familiar with?

A. Yes, there have been conclusions from these studies.

I might mention that some of them are of the character you describe. Other are much more complete in that they also consider where people work and the size of family they have and many other factors, and in all of these studies there is an indication that the location of black population is determined partly by these factors, and the same way as for whites, but that in addition, there is a great degree of racial concentration of blacks that can’t be explained by these factors.

[1762] In the simplest case of the income comparison you mentioned, the blacks with a medium income or paying medium levels who rent or own homes of a medium value are not living interspersed with whites at the same economic level or paying the same amount for housing, and the poor whites and the poor blacks are not interspersed. The rich whites and the rich blacks, as I indicated in the city and suburban example, are not interspersed. This is obviously true within the city simply by the degree of concentration of the black population.

Q. Now, you mentioned your 6-percent figure for black, \$10,000 and over.

A. Yes.

Q. Is that accounted for by a lower proportion of black families which have incomes in that range?

A. This applies to the families that have that income. It's a percentage of all those who do have high incomes.

Q. The 6 percent is not realized to the number of blacks with that, but it is a percentage of all those groups; is that correct?

A. Right. Of the — if we call them the wealthy blacks, 6 percent live in the suburbs. Of the wealthy whites, 40 percent of them live in the suburbs.

Q. If people were originally presented with the value [1763] of the housing they could afford instead of according to skin color, what would happen to the levels of residential segregation in most American cities?

MR. PORTER: I object to the question.

THE COURT: Overruled.

A. The level of segregation would be, on my index, more like 5 or 10 or 15 rather than 70 or 80 or 90.

[1777] Q. All right. Now, going back, if you will, to Section 266 which refers to schools, what effect, in your opinion Dr. Taeuber, does the racial composition of schools with respect to pupils have on housing choices and housing location?

A. As the FHA Manual indicated, many of the families seeking housing of school-age children, these people in particular consider not only the house and the physical — other characteristics of the neighborhood, but also the character of the schools that their children will most easily be able to attend, and typically this is the local public school. The people, as I indicated before, through the listing services or through the transmittal of information from realtors and others typically are informed as to the name of the school and often as to the racial character

of the school or other features of the desirability of the school.

* * * * *

[1778] Q. (By Mr. Lucas) Dr. Taeuber, I show you the realtors' multiple-listing service manual, Columbus Board of Realtors, April 9, 1976, and ask you if the cards located therein or reprinted therein show schools?

A. Yes, the standard form includes a space for grade school, junior high, high.

Q. Is that the sort of information you have been referring to?

A. Yes, that is the kind that is available, whether or not it is printed in a book, but it is available to the people doing the selling, whether they are realtors or private individuals. It is frequently communicated in advertising. It is frequently used, as I indicated, as a basis for housing to characterize the residential neighborhood.

The character of the local school is one of the most important features of the neighborhood, and it is used that way, described that way. It is known to the people involved.

I might mention this is true not only for the people with school-age children, but for other families who might be in the family formation stage who might eventually have school-age children. Because it is so important to so many families, it also thereby becomes important to [1779] everybody else because it helps define the general understanding of the desirability of the neighborhood. As the FHA Manual indicated, as President Nixon's statements in his report to the Congress indicated, there is continuing concern as to the racial composition of the local school in the neighborhood, as well as to features of whether there are parks, whether there are industries and other inductive features.

Q. What effect does the change of the faculty from white to black have on identification of an area insofar as it affects housing choice?

A. In most American cities in the last 30 years, black population has been increasing. This has meant that additional housing has to be found for the population, and there has typically been an expansion at the periphery of previous areas predominantly Negro. Now, this expansion occurs in a small area at a time. It is not typically a scattered process where if a thousand new black families come into a city in a year, they locate scattered around the housing vacancies as would a thousand white families who came to the city. They typically locate in certain areas that are widely understood by blacks, by whites, particularly in the housing industries, to the areas that are available under the sanctions of good real estate practice for sales, rental, of formerly white occupied housing to blacks.

[1780] Now, the precise boundaries of these areas, how much of an area opens up in a given unit, is often determined by school boundaries and the character of the local school, and, in some cases, the response of the School Board by putting in black faculty as a few black pupils move into the school. If a black principal or black teacher is appointed there, but not out in a predominantly white area, this is an indication, a confirmation of the general understanding that this area is going to become all black.

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[1786] Q. [By Mr. Lucas] Did you examine material with reference to the number of annexations which have taken place in the Columbus area?

A. Yes, I was provided with a list of something like a hundred and ninety separate annexations to Columbus during the period since 1954.

Q. All right. Did you examine that annexation in turn with the effect on the population figures as reflected in the U.S. Census.

A. The report that I was presented did not show population figures, and I have not made a specific effort to determine how much of the population in each of the census years was in territory annexed during the preceding decade. Such figures are shown in the census reports.

Q. How does Columbus differ, if any, from other communities in terms of its total population growth or decline?

A. Well, Columbus City continued to grow. The general pattern in the U.S. has been for the metropolitan populations to continue to grow throughout.

Let's take the period from World War II on. They've been growing very rapidly in nearly every metropolitan area. There are exceptions in particular economic factors, Scranton, coal mining areas. They had difficulty. But in general, metropolitan areas have grown. [1788]

Now, the cities have been a mixed picture in that many of the larger eastern and midwestern cities were densely settled and did not annex additional territory or very much territory during this period, and many of these cities showed either a net out migration or an absolute loss in population. In other words, the out migration was greater than the natural increase, so that many large cities in the east and midwest have actually declined in population, many of them during the 1960s, some of them even back during the 1950s.

Now, Columbus does not show this pattern. It had a substantial annexation and had lots of vacant land as do many of the southern cities which could still be built upon within the city limits, so not all of the additional housing was accommodated beyond the city boundaries.

So, in this sense, Columbus is somewhat unusual. Much of the metropolitan growth that is quite common

nationally and in other metropolitan areas occurred in Columbus with the expanding boundaries of the central city. This is a pattern that's true of many places, but the majority do not have that kind of extensive, continuing annexation.

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[1791] Q. [By Mr. Lucas] Did you prepare a segregation index for the Columbus Public Schools?

A. Yes, from these same data sources, the 1963-64 through 1975-76 years, with the exception for 1966-67 data, which no data appear on these lists. I have the index for pupils for elementary junior and senior high schools.

Q. Did you use minority versus non-minority?

A. Yes, I did.

Q. And in Columbus, are the other minorities a very small number?

A. There are very few minorities other than the Negro pupils.

Q. All right. What is the index segregation at the elementary level in 1960 through '64 of the Columbus Public Schools?

A. The index was 76.

Q. What was it in 1970?

A. In 1970, it was 80.

Q. And in 1975? [1792]

A. In 1975, 70.

Q. What was the index at the junior high level in February of '63-64?

A. That was 63.

Q. All right. And 1966, is there a change between '66 and '67?

A. Yes, from '66, the figure was 61 the '65-66 year, and in the '66-67 year — excuse me. The —

Q. '67-68, I believe.

A. Yeah. We switched from a spring date to a fall date on which there is some confusion there. In the '65-66

year from the data on those exhibits the index was 61, and from the '67-68 year, the index was 69. This was an increase of eight points over that two-year period.

Q. Did you look at any of the school construction data to determine the reason for that jump?

A. Yes, I —

MR. PORTER: Objection.

THE COURT: Overruled.

A. Yes, I examined the school by school changes and noticed that one junior high school that had a mixed racial composition was closed, and I believe four additional junior high schools were opened for predominantly one race pupil enrollment.

Q. All right. And what was the figure — let's pick [1793] the same break points — 1970?

A. 1970, the figure for junior high pupils was 66. For 1975, the figure was 56.

Q. All right. At the senior high level, what was the figure in February of '63-64?

A. The figure then was 55.

Q. In 1970?

A. In 1970, the figure was again 55.

Q. In 1975?

A. The figure was 54.

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CROSS EXAMINATION BY MR. PORTER

[1817] Q. [By Mr. Porter] Your index is a measuring device; isn't that right?

A. That's correct.

Q. And it takes a set of given facts and it measures them; isn't that correct?

A. That's correct. [1818]

Q. No conclusions with respect to the cause which may underlie it; isn't that right?

A. That's right.

Q. Now, if I understand correctly from what you have said here today and what you have said on other occasions, there are basically three causes for residential segregation. They are economics, choice and residential discrimination or discrimination in housing; am I right about that?

A. Well, yes, racial discrimination. Yes, those are the three general categories of causes.

Q. Just so we understand each other, it is your position and your testimony that those are the three causes for residential discrimination; is that right?

A. Those are the three types of causes of residential segregation.

Q. And then you proceed in this case and elsewhere to say, well, choice has the following problems associated with it, that it is really not free choice in many situations and so forth. Am I not correct about this?

A. Yes.

Q. But the fact remains that choice remains one of the three factors which determines this; is that not so?

A. Yes.

Q. And the same thing is true with economics; is that not so? [1819]

A. Yes.

Q. And finally, the last one which you refer to as racial discrimination, you list a group of practices which affect racial discrimination; am I right about this?

A. Yes.

Q. All right. They are racially motivated site selections and attendant assignment policies in public housing; is that correct?

A. Are you quoting from me there?

Q. Yes, I am.

A. Which document?

Q. I am quoting from your most recent article in the Wayne Law Review entitled Demographic Perspective on Housing and School Segregation by Karl E. Taeuber.

A. That's it, thank you.

Q. And I am reading from page 840.

A. Right.

Q. That is the first one, is it not?

A. Yes.

Q. And the second one is racially motivated site selection, financing, sales and rental policies of other types of government subsidized housing, for example, Federal Housing Administration and Veterans Administration insurance programs; is that correct?

A. Yes. [1820]

Q. The third one is racially motivated site selection, relocation policies and practices and redevelopment policies and urban renewal programs. That is the third one, is it not?

A. Yes.

Q. And the fourth one is zoning and annexation policies that foster racial segregation; is that correct, sir?

A. Yes, sir.

Q. The fifth one is restrictive covenants attached to housing deeds; is that correct, sir?

A. Yes.

Q. And the next one is policies of financial institutions that discourage prospective developers of racially integrated private housing?

A. Yes.

Q. That's the next one, is it not?

A. Yes.

Q. And the next one, seven, is policies of financial institutions that allocate mortgage funds and rehabilitation loans to blacks only if they live in predominantly black areas; is that correct?

A. Yes.

Q. The eighth one is practices of real estate industry such as limiting the access of black brokers to [1821]

realty associations and multiple-listing services; is that correct so far?

A. Yes.

Q. The next one is refusal by white realtors to co-broke on transactions that would foster racial segregation. Is that the next one?

A. Racial integration it says.

Q. I am sorry, that's correct. And the next one is block-busting, panic selling and racial scaring; is that correct?

A. Yes.

Q. The next one is racially identifying vacancies overtly or by nominally denying codes, for example, advertising housing according to racially-identifiable schools or other neighborhood identifiers; is that right?

Q. Yes.

Q. The next one is refusing to show houses or apartments or refusing to encourage blacks to consider housing in white neighborhoods. That is the next one, is it not?

A. Yes.

Q. The next one is reprimanding or penalizing brokers and salesmen who act to facilitate racial integration. That is the next one, is it not?

A. Yes. [1822]

Q. And the last one is racially discriminatory practices by individual homeowners and landlords. That completes the list, does it not, Dr. Taeuber?

A. Yes, it does.

Q. You believe, if I understand what you have written, which is a little presumptuous of me, but to the extent I understand it, what you are saying is that there is a unit — and I believe that's your word — a unit of problems which have caused the residential segregation that exists in this community, and that it has to be dealt with as a unit. Isn't that right?

A. Unity, I intended to refer not primarily to any focus on residential segregation, but the common linkage between the economic discrimination and housing discrimination and educational discrimination, labor market discrimination, social discrimination.

Q. And that's what I meant to say, too. Thank you for correcting me.

It is all these problems which have produced or rather all of these factors which have produced the problems that exist with respect to discrimination; is that right?

A. Right.

Q. And you feel as a sociologist that the way to handle that is through the so-called unity approach; is that right or not? [1823]

A. As a sociologist, yes.

Q. For example, you say in your book *Negroes in the Cities* at page 20 that it is impossible to pin responsibility for residential segregation on the prejudice or discriminating behavior of any particular group or agency. Does that not appear in there?

A. Yes.

Q. That is your opinion, is it not? That is your opinion?

A. In the context. I hate to have to live forever without the context in which a particular sentence appears. If I state my opinion now, I would insert the word full. Pinning full responsibility on any one agency, that's impossible.

Q. I think you also stated in this publication at page 196 that if there are sizeable really homogeneous clusters, then public institutions such as schools, libraries and parks, as well as stores, theaters and other places of business may service only one racial group solely because of the residential segregation. Did you not say that?

A. Yes.

Q. Now, if I understand correctly, it has been your experience or it is your opinion, I guess is more accurate, that during the period of the '40s — excuse me, during the [1824] period of the '50s, the in-migration of blacks in the '50s primarily settled in established residential areas. By that I mean buildings, homes, that were in existence. Am I correct about that?

A. Are you referring to the black in-migration?

Q. The black in-migration?

A. Yes.

Q. If I understand correctly, it is your opinion that in the '60s the in-migration is of a slightly different type, that it is more dispersed than the in-migration of the '50s; is that correct?

A. No, I don't recall making that statement here or writing that any place.

Q. Well, do you agree with it? I assure you I didn't make it up. I thought I got it from out of your stuff, but maybe I didn't.

A. This has been true in a number of places where, as I indicated, the segregation measures decline, but I have not made a specific study as I did for the 1950s of the location of migrants.

Q. For my purposes — let me explain where I am going and see if we agree. You have identified and we have just gone over a number of factors which cause people to live where they live, in this case, blacks. What I would suggest to you and ask you if it isn't a fact that you [1825] cannot predict specifically what piece of real estate will be occupied five years from now by any particular minority group?

A. It cannot be predicted with perfect accuracy, but a lot of money has been made by predicting it with reasonable accuracy.

Q. Well, the efforts, the efforts, I would suggest to you, are efforts such as yours that appear in your book — isn't that true — includes this type of efforts?

A. No. [1826]

A. No, I made no effort to examine which particular properties will turn over. I know the general process, but not the particular dynamics and particular tiny segments of the real estate marketing in particular cities.

Q. Well, I misunderstood you, then. I thought you testified that a community developed — the black community developed from some kind of a fixed location and then expanded out. Isn't that what you said?

A. At any given census point, there is a cluster or several clusters of predominantly black areas. There are areas surrounding them that are less heavily black, and there are further white areas outside of those. Now, those areas — what I have done is to — for example, say, let's take the area that has blacks, all these census tracts that have blacks, and let's identify, say, as of 1950 all of the surrounding predominantly white tracts, and then I'd say, "What are the characteristics of all the peripheral tracts that, given this peripheral expansion process, are subject to racial turnover, which one of those did turnover," in the sense of not which one was at northeast or along this street or that street, but in the sense of, "Was it the ones with the better housing or the worst housing?"

I've made no attempt — I've never made any attempt to try and predict the dynamics, the specific dynamics in the way an investor would make in the local [1827] real estate market.

Q. Okay.

A. It's been the character — what are the characteristics of the blacks that move into these surrounding territories, and which of these surrounding territories acquire the blacks and which don't, I say, in the sense of is it the better areas, the worst areas, the slums, is it the ethnic neighborhoods?

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[1828] Q. [By Mr. Porter] The point I simply wish to make and ask you if you would not agree is that the growth or the residential pattern for blacks in a community will vary between the community based on whatever the peculiarities are within the particular locality.

Would you agree with that?

A. Yes, I would.

Q. For example, if I suggest to you that the growth in the City of Columbus has not been to the west but has been to the east and north, would this come as any particular surprise? to you? I suppose you would say, "Well, I don't know which way it's going to go. It could go any way." Right? [1829]

A. Are you talking about which way it has gone or which way it is expected to go within the next few years?

Q. Which way it has gone.

A. That would be roughly accurate, but there is some western projection. [1830]

Q. But I would suggest to you, Dr. Taeuber, there wasn't any in 1950. How do you account for that?

A. I'm not sure what the contradiction is. Are you referring to the 1950s?

Q. Yes.

A. There wasn't any black?

Q. There was a very small black community, according to the census tract, in the City of Columbus west of the river in 1950?

A. And what's the question about it?

Q. That is not — has not developed as a periphery part of the black community?

A. It's not at all unusual for there to be somewhat isolated pockets, if you will, that are there for historical reasons, either old residential areas, some times areas of poor housing, sometimes around a particular institution, particular historical reasons why there is such a settlement, and as the black population expands, part of my view

is that it is deliberately channeled in certain directions and that it doesn't just scatter in every which direction, it doesn't fill in all the peripheral tracts. It fills in certain ones and not others, and there are specific historical and institutional and specific reasons why the movement occurred in a certain direction and not in some other direction, and so I have no explanation as to [1831] why it does or doesn't fill in toward one particular concentration of blacks.

Q. You would agree, would you not, that it would — the development would depend on a myriad of facts and circumstances; isn't that true?

A. Yes, yes.

* * * * *

[1839] Q. [By Mr. Porter] You did not know that fact. Directing your attention now to page 240 of your book *Negroes in the Cities*, I am going to hand it to you with the Court's permission and ask you to look at Table A-5 headed Estimated Effect of Annexation on Segregation Indexes, and I would ask you to take a look at it, please, and then I want to ask you a couple short questions.

A. Okay.

Q. Now, first off, I would assume that the reason for the selection of the list by you at the time was because it represented a city where there had been substantial [1840] annexation; am I correct about that?

A. Yes.

Q. Isn't it true that the area shown by cities annexed, that the largest area is in Dallas, Texas?

A. Yes.

Q. What is it, please?

A. 193,000.

Q. And what is the next one?

A. Columbus.

Q. What is it, please?

A. 76,000.

Q. And as of what time is that, Doctor?

A. This is 1950 to 1960.

Q. Isn't it a fact that then it drops to — what is the next one, please?

A. 62,000.

Q. Thank you. Approximately how many cities are listed there, Doctor?

A. 24 cities are listed.

* * * * *

[1840] Q. [By Mr. Porter] You were asked to look at the multiple listing of Columbus, some page or two of it, and asked some questions or asked about the identification of schools on that. Do you recall that this morning?

[1841] Q. Do you happen to recall whether or not — strike that.

I'll hand it to you, Doctor, and it's opened to page 281. Is that the page that you were looking at with Mr. Lucas?

A. I don't know.

Q. In that multiple listing classification, does it say anything about race? It doesn't does it?

A. Well, it's — I'm looking through the form before I answer.

No, there's no obvious place for any specific indication of race.

Q. Is there anyplace on there that deals with racially restrictive covenants?

A. No apparent place, no.

* * * * *

[1848] Q. [By Mr. Porter] Now, I wish to direct your attention, please, to the school segregation index in the City of Columbus. First off, I would like to ask you if you did the — if you have the papers before you which show those results with respect to Columbus by year or school or however it is done?

A. Yes, I do.

Q. May I see it, please?

A. Yes, sir.

Q. I would like you, Dr. Taeuber, since I don't have a copy of this — do you have a copy in front of you?

A. I have a handwritten version.

Q. All right, that's what this is. I would like to put into the record, please, what these figures are. [1849]

Q. (Continuing) Would you start with —

MR. LUCAS: Can we mark the document as an exhibit so that it will be complete?

THE COURT: All right.

MR. PORTER: C? What is it?

MR. LUCAS: Excuse me. Mr. Porter, why don't we make it Plaintiffs' Exhibit 505?

MR. PORTER: Fine, 505.

Q. Now, if you would, please, give us the elementary school figures starting at the bottom of your list down through the fall of '75.

A. Year by year?

Q. Please.

A. Beginning with 1963-64, the index is 76, and then 78, 80.

And then a year is skipped, and then the index for 1967-68 is 79, 81, 81, 80, 77, 76, 76, 73, 70.

Q. Would you do it, please, for the junior high school?

A. Read what's on the exhibit?

1963-64, 63.

Next year, 63, 61.

Skip a year, and then 69, 68, 67, 66, 67, 66, 64, 62, 56.

Q. The senior, please? [1850]

A. Senior, beginning with '63-64 school year, the index is 55, 54, 53.

Skip a year, and 50, 53, 56, 55, 57, 58, 57, 56, 54.

* * * * *

REDIRECT EXAMINATION BY MR. LUCAS

[1865] Q. [By Mr. Lucas] Mr. Porter read — had you read or read to you, I believe, extensively from an article you wrote about the causes of housing separation, and he had you enumerate choice, economics, and I believe you used the term “discrimination,” and he had you — or he read to you a number of specifics from that particular article of racial discrimination. He did not, however, ask you to read from page 841 of that article. Is there an additional section which he failed to read to you? Do you have a copy?

A. Yes.

Q. What is the title of the section on 841?

A. The Section 3 of the article is the relationship between housing and school segregation.

Q. All right. If you would turn to page 843 and read the paragraph from your article beginning “However.”

MR. PORTER: If the Court please, I’m going to object on the basis that —

THE COURT: Yes?

MR. PORTER: — it’s beyond the scope of [1866] cross-examination.

THE COURT: Overruled.

A. I wrote: “However, the cause-and-effect relationship between residential and school segregation can be viewed the other way as well. The racial composition of a school and its staff affects the racial composition of housing within the school’s attendance zone. This is especially apparent in neighborhoods experiencing racial change. The changing racial composition of the school’s pupils and staff serves as a signal to the public — realtors, homeseekers, residents, et cetera — that school authorities expect the school to become all black. Families with children, and everyone else, too, may use school attendance zone lines to make their housing decisions.”

Q. Continue, please.

A. “Several factors contribute to the influence school attendance zones may have on patterns of residence. One factor is that residential neighborhoods rarely have precisely defined boundaries; schools provide local administrative boundaries which are widely known. A second factor is that young couples with young children account for much of the extraordinary residential mobility of Americans. Choice of location depends on available housing but also on perceptions of neighborhood amenities. Among these, the perception of the local school looms large. If it is [1867] identifiable as a black school, whites tend to move away or stay away. If schools were not racially identifiable, or if predominantly black schools were not perceived as inferior schools, then school attendance zones would play only a minor role in residential choices and in the behavior of the real estate business.”

Q. And the third factor?

A. A third factor is that schools, their staffs and attendance zones, are subject to direct administrative control. Assignment of a black principal and the shifting of a school attendance boundary are highly visible deliberate acts that may imply racial consequences to homeseekers, landlords with vacancies, and banks with funds to loan.”

LUCIEN C. WRIGHT

called as a witness on behalf of the
Intervening Plaintiffs, being first
duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. ADKINS

[2037] Q. [By Mr. Adkins] Would you state your full name?

A. Lucien C. Wright.

Q. And your address, please?

A. 1304 East Long Street.

Q. Mr. Wright, are you an employee of the Columbus Board?

A. Yes, sir.

Q. And what is your position?

A. At the present time, I am Director of Human Relations.

Q. When did you begin your employ with the Columbus Board?

A. September of 1935.

[2038] Q. In what capacity?

A. As a teacher at Mt. Vernon Avenue School on the corner of Mt. Vernon and Ohio Avenue.

Q. How long were you a teacher at Mt. Vernon?

A. Eight years.

Q. In 1943 did you assume another position with the Columbus Board?

A. Yes. I was made Principal at Felton Elementary School.

Q. And how long were you at Felton as Principal?

A. Twenty years.

Q. In 1963?

A. I was transferred to Garfield School. In the meantime from '59 to '63 I had a double assignment, Leonard Avenue and Felton, and then in '63 I was transferred to Garfield and Clearbrook Elementary Schools.

Q. In 1963 were you simultaneously Principal of Garfield and Clearbrook?

A. Yes, sir.

Q. And how long did you remain in that position, sir?

A. I remained Principal of Garfield and Clearbrook until '68. In the '67 school year I was relieved of my double assignment. Someone else was assigned Clearbrook, but I kept Garfield until April 1 of 1968.

Q. And in 1968 you assumed what position?

[2039] A. Director of Intercultural Education at the Board of Education.

Q. Is the Department of Intercultural Education the same as the Department or Office of Human Relations which you now head?

A. I understood at the time in talking with the superintendent, who was the late Harold Eibling, that I was to assume the responsibility of working with the Intercultural Council. It did not meet. I assumed the Chairmanship of the Task Force, Administrative Task Force, plus a lady that came in with me, Mrs. White, assumed the responsibility in the volunteer role. Later on we asked that the name be changed to Human Relations instead of keeping the intercultural name. This was around '71.

.

[2042] Q. During the time you were teaching in Mt. Vernon, the eight years that you were at Mt. Vernon, can you recall whether the student body at Mt. Vernon was a racially integrated or predominantly black or predominantly white student body?

A. It was predominantly black.

Q. During the time that you were there, was the teaching faculty a racially integrated teaching factory, or was it also predominantly black?

A. It was all black.

Q. It was a hundred percent black?

A. Yes, sir.

Q. And during the time you were teaching — or you were principal at Felton, was it a predominantly black student body, also?

A. Yes, it was. When we — when we started in '43, about, I think, ten or — I'd say ten or twenty, not being able to count for sure, of the students stayed until leaving the sixth grade, but the staff assigned at the time was 100 percent black.

Q. In 1943, when you became principal at Felton, that was in September, 1943, I assume, right?

A. Yes. Yes.

Q. In 1943, in June of that year, had the teaching staff at the Felton Elementary School been a hundred percent black?

A. No, sir, it was a hundred percent white.

Q. So between June of 1943 and September of 1943, the teaching faculty went from a hundred percent white to a hundred percent black?

A. That's correct.

Q. And was the principal at Felton in 1943, that school year that ended in June, also white?

A. Yes, sir.

Q. And was the rest of the administrative staff at Felton white?

A. Well, she was only — she was the only principal there at the time.

Q. She was the only principal?

A. Yes, sir.

A. And in September of 1943, the school was converted from a hundred percent black administrative staff and faculty — from a hundred percent white administrative faculty and staff to a hundred percent black?

A. That's correct.

[2044] A. Yes.

Q. Between June and September, 1943, did Felton become a predominantly black student enrollment?

A. I would say prior to that time the area had almost completely changed. Knowing the policy at the time, that was the way it was done. A school was changed administratively and teaching staff. Felton was the last school that this type of program was worked.

Q. Now, did something particular happen in 1943 that caused a decision to be made to change Felton from 100-percent white staff and faculty to 100-percent black staff and faculty? Do you know of any particular thing that happened?

A. Only the almost complete change of enrollment at the school. That's the pattern that I noticed in Mt. Vernon and Garfield.

Q. You say Felton was the last school at which that happened?

A. Yes, sir.

Q. By that you mean the complete transfer from 100-percent white to 100-percent black?

A. Yes.

Q. Did the same thing happen at Garfield?

A. It had happened, yes, around '32 or '33. I don't know the exact date.

[2045] Q. But at some point a previously all-white administrative staff and faculty in June at the end of one school year was succeeded by a totally all-black staff and faculty in September of that same year?

A. Yes.

Q. Did it also happen at Mt. Vernon?

A. Yes, it did.

Q. Do you know of other schools at which that happened, Mr. Wright? At Mt. Vernon would it have been around '28 or '29?

A. I think around '28 or '29. I am just remembering. I think Garfield was around '32. In '37 Pilgrim was changed from a junior high to an elementary and the staff was changed. Then Felton in '43.

* * * * *

ROBERT W. CARTER
called as a witness on behalf of the
Intervening Plaintiffs being first
duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. LUCAS

[2268] Q. [By Mr. Lucas] Would you state your full name and occupation, please, sir?

A. My name is Robert W. Carter. I am presently a full-time graduate student at Ohio State University in the doctor program of educational administration.

[2269] Q. I believe at your deposition you indicated you were employed by the Columbus Board of Education, did you not, sir?

A. I am on a sabbatical leave from the Columbus Board of Education.

Q. And are you an employee of that Board?

A. Yes, sir.

Q. Thank you. How long have you been employed by the Columbus Board of Education?

A. I have been employed for a period of 19 years.

Q. In what capacity have you been employed, if you'll start from your earliest and bring us forward, please?

A. I was employed in the year 1957 as a teacher and later as a teacher-counselor in a junior high school.

In 1963, became administrative cadet and went through the administrative cadet program.

In 1964, received an appointment as assistant director of administrative services, central office.

In 1969, appointed executive director of administration, central office.

Q. When did you first begin to deal with the question of setting school attendance patterns?

A. During the 1964-65 school year.

[2325] Q. Were you responsible for the assignment of black principals to black schools?

A. That was the responsibility of the Superintendent.

Q. Were you aware of a pattern of assignment of black principals to schools with predominantly black enrollments?

[2326] A. I was aware, yes, sir.

Q. Did you make any recommendations with respect to changing that pattern?

A. Recommendations were made from the Deputy Superintendent's office regarding the assignment of principals.

Q. Did you make that recommendation?

A. I have had inputs to those recommendations.

Q. Is it a recommendation in favor from you or against?

A. They have been in favor, yes, sir.

Q. In favor of change?

A. Yes, sir.

Q. And when did you make that recommendation?

A. Of change of assignments?

Q. Yes.

A. Is that what you mean?

Q. I am sorry, I can't hear you.

A. Change of assignments?

Q. Assignments of principals so that there would no longer be a pattern of black principals and black students.

A. We made annual recommendations on the assignment of principals.

Q. In the course of making the annual — I take it they are reassigned annually?

[2327] A. Yes.

Q. So each and every year you have an opportunity or the Board has an opportunity or the Superintendent, whoever is responsible, to make a change, each and every year; is that right?

A. Yes, sir.

Q. And each and every year there has been a pattern of assignment of black principals to black schools; is that correct, since you have been with the System?

A. There has been modification of that policy in recent years.

Q. But it is still a pattern that is visible and readily so in the Columbus School System, isn't it?

A. We still have black principals of black schools.

Q. Is there a pattern to it, not just an occasional situation where that occurred? Do most of the predominantly black schools have black principals?

A. I can't speak matter of factly on the question of pattern. I would say from my general knowledge of assignment, there would be more black principals of black schools than black principals of white schools.

* * *

[2329] Q. Did you make any recommendation that the pattern be changed is my question?

A. No, sir.

Q. Did anyone make any recommendations that they change that pattern, anyone within the staff?

A. Not to my knowledge.

Q. Were there outside recommendations and requests that that pattern be changed?

A. I have no direct knowledge of this recommendation, only hearsay knowledge.

Q. All right, did you obtain any of your information from the public press indicating that organizations interested in the schools had requested the Board to make such changes?

A. Yes, sir.

* * *

[2398] Q. [By Mr. Lucas] All right. You testified earlier this morning that the school attendance boundary lines or organizational changes would be made to improve the opportunity of schools to be integrated. Do you recall that?

A. Yes.

Q. My question, then, very narrower is that, to your recollection, is that the first time that the system had indicated that it would consider the technique of grade organization changes as a method of desegregating?

A. I don't recall specifically that the Board indicated grade organization. They indicated that racial balance

would be considered in the location and placement of schools and in the drawing of boundaries.

Q. Okay. That leads me to my next question.

Was the Innis-Cassady grade organization change proposal that was submitted as one alternative to the Board the first such proposal that you can recall?

A. The grade organization to promote a better distribution [2398A] was the — in Innis and Cassady was the first such option of its kind presented to the Board of Education by me. [2399]

Q. Is it the first once to your knowledge since 1964 by staff? I realize other community groups have suggested that earlier.

A. Yes, for a total school.

Q. Had the system operated one grade centers prior to this time?

A. We had operated in three or four locations a primary center, but the entire attendance area, we always had a home school before, a K through 6 school that was a supporting school. We never had a complete division of primary-intermediate.

Q. You mean system-wide, but you did have some primary schools. For the record, would you define what you mean by primary?

A. Primary is basically K through 3, and these were schools added to relieve the overcrowding of the home base school.

Q. Generally speaking, what you would do is simply divide the home school attendance area and put a portion of the students in that attendance area in a primary unit located within the same geographic boundary?

A. That's essentially how we handled it.

Q. Can you give us some examples of that?

A. Hudson-Hamilton was an example. Then we simply with the '72 bond issue, when we added rooms to

Hudson Street, [2399A] we made it a K through 6 organization, so it now became a self-contained organization.

Colerain-Indian Springs is another example of this where we located a primary center in the Indian Springs K through 6 attendance area.

A third example might be Sixth Avenue Elementary School where we located to relieve the overcrowdedness of Weinland Park and Second Avenue.

Q. When you locate a primary unit within an attendance zone, it is the same thing as expanding the capacity of that particular plant, in effect, is it not?

A. That's correct.

Q. By maintaining the same boundaries, you, in effect, rather than move boundaries out or narrow the boundaries some way or another to relieve the overcrowding, you simply have added on to that unit, that organizational unit for that building?

A. That's correct.

Q. Does that have the effect of containing those students in that particular location?

A. The decisions were made generally because the home base school was at maximum capacity in terms of size. The Board of Education generally wished to build elementary schools not larger than 25 to 27 rooms, approximately 25. This would be approximately 700 students, and the general [2400] feeling was that this was large enough for an elementary school.

We rather than build an addition to the school to relieve the overcrowding, the general trend was to build these primary centers which in turn eventually would become school attendance areas on their own. An example of this is Hudson-Hamilton.

Q. My question to you is does the building of the primary unit at that location within that attendance zone have the effect of containing that particular zone's population?

A. It does not alter the general attendance area of the home school.

Q. Does it have the effect of containing those children within that attendance area?

A. It contains the children in that general attendance area, yes, sir.

Q. From time to time has the Columbus System built what might generally be called replacement schools in essentially the same location for existing older structures?

A. This was a part of the recommendation of the 1972 bond issue program and is, in fact, an activity that is being followed in the '72 program.

Q. And generally speaking in building these schools in the same — first of all, generally in the same attendance [2401] area; is that true?

A. Yes.

Q. And usually, depending on availability of sites, in close proximity to the existing site?

A. Yes.

Q. On some occasions they actually tear down a portion of the old building and build on using whatever green space there might have been and then tear down the balance of the old when they finish the new one; is that correct?

A. That's generally the process.

Q. So it generally results in the relocation of the school at the same site?

A. Yes.

Q. Approximately. All right, at the same time I take it your office would re-examine the question of boundaries, although you were not again involved in determining whether to rebuild at that site? That was made by somebody else?

A. That's right.

Q. Once given that premise, you would redetermine the boundaries of that particular school unit, or would it be assumed that the existing boundaries would be sufficient?

A. We would review the capacity of the new facility in terms of the facility that it replaced, and appropriate adjustments might or might not be made of the general [2402] attendance area.

Q. My question to you would be did you follow the same procedure? Did you do a full-scale census if you were replacing a school on the existing site?

A. Not necessarily.

Q. You might have in some instances, but generally no; is that fair?

A. Generally no, that's correct.

Q. Generally speaking, you would end up effectively redrawing the boundary of that school in the same location?

A. That's correct.

Q. While it might technically be a new boundary, it would still be the old boundary?

A. Right

MR. LUCAS: If the Court would indulge me just a minute.

Q. (By Mr. Lucas) When you build a completely new school in an area where there is not an existing building and you go out and do the full-scale census and draw the boundaries, the boundaries that you select, are they in any way related to some sort of ethnic neighborhood or some sort of homogenous type development? Are they strictly based on numbers of children?

A. We would consider several items in the development of new boundaries. One would be geographic barriers, major [2403] thoroughfares, railroad tracks, those kinds of safety hazards. We would consider the density of the community. We would consider potential for growth in the area so that if we needed to expand, we had to

give that consideration. We would consider the ethnic distribution of the area. I mentioned safety. We would consider the organizational structure of the area.

[2404] Q. What do you mean by "organizational structure"?

A. Whether it was an elementary or junior or senior high school.

Q. Would you say that the drawing of the boundary by the school Board at that time determines the — well, in fact, it determines the attendance area of the schools once that decision is made?

A. Yes.

Q. Does that determine the neighborhood of the school?

A. That would then become the —

Q. Neighborhood for the school?

A. — the school neighborhood, the school community.

* * * * *

CROSS-EXAMINATION BY MR. ROSS

* * * * *

[2405] Q. [By Mr. Ross] All right. Do you know how long the pairing of [2406] Indian Springs and Colerain Elementary has been in effect?

A. It was in existence when I was assigned to the central office in 1964, and it continues to the present time. There has been an addition of the crippled children's school at Colerain to permit mainstreaming of those youngsters, but it is, in fact, still a primary center to Indian Springs School.

Q. Okay. And which is the home school, Indian Springs or Colerain?

A. Indian Springs.

* Q. Indian Springs? And the reason for this is that there has been a high kindergarten through three student population in Indian Springs?

A. At one time, that is correct.

Q. All right. But is there any reason at this time for maintaining that system?

A. The only reason would be a distance factor. If Colerain School were not located where it is, in all probability, the administration would have to face a transportation problem, and it does not because of the location, proximity of Colerain to the area it serves.

Q. Okay. Would you describe this as a Princeton pairing type situation?

A. No, sir.

Q. How would it differ?

[2407] A. My understanding of Princeton pairing would be the exchange that you would find in — you would find grade levels representing each school in the other school, and the Indian Springs - Colerain —

Q. Difference in grade?

A. I'm sorry?

Q. You said difference in grade?

A. You would find grade twos from A school in B School in grades three and B School in A, as an example. That's my understanding of the Princeton pairing.

Q. Okay. Do you understand it also to include K through 3 and —

A. It could.

Q. — 4 through 6? It could?

A. It could.

Q. It is flexible in that nature. So this particular situation may be one which could possibly be termed as a Princeton pairing, then?

A. No, it's a feeder school. We do not have 4 through 6 youngsters from Indian Springs in Colerain, nor do we have K through 3 youngsters in Colerain. I see a distinct difference.

Q. It's K through 3 in Colerain and 4 through 6 in — sorry — K through 3 in Indian Springs and 4 through 6 in Colerain?

[2408] A. No, sir. The Colerain organization is K through 3 or 4. I'm not sure of the maximum grade level at this point. I believe it's K through 3. And Indian Springs is K through 6, so that the attendance area for K through 3 in Indian Springs is one portion of the total attendance area for Indian Springs. K through 3 in Colerain is the remaining portion of that general attendance area, and the 4 through 6 youngsters come from the entire attendance areas of both schools.

Q. Okay. Now, how many other such pairings are there in the Columbus School System, do you know?

A. We have eliminated that kind of pairing at Hamilton - Hudson, and we've closed Sixth Avenue. I believe this is the remaining satellite.

Q. And you find those particular grade structure arrangements to be educational and sound and feasible?

A. Yes, sir.

* * * * *

MARTIN E. SLOANE

called as a witness on behalf of the
Intervening Plaintiffs, being first duly sworn,
testified as follows:

DIRECT EXAMINATION BY MR. JONES

[2409] Q. [By Mr. Jones] Would you state your name, please?

A. Martin E. Sloane.

Q. Where do you reside, Mr. Sloane?

A. I reside in Washington, D.C.

Q. By whom are you employed?

A. I'm employed by the National Committee Against Discrimination and Housing.

Q. In what capacity?

A. I'm the General Counsel.

* * * * *

VOIR DIRE EXAMINATION BY MR. PORTER

[2417] Q. [By Mr. Porter] Mr. Sloane, have you had the opportunity or have you participated in studies involving the City of Columbus or its School System?

A. No, I haven't.

DIRECT EXAMINATION BY MR. JONES

[2429] Q. [By Mr. Jones] Now, let's talk about FHA. Are you familiar with [2430] the policies and practices of the Federal Housing Administration?

A. Yes, I am.

Q. And are you familiar with those policies that were pursued by its predecessor agencies or agency?

A. Well, FHA had no predecessor. The housing home — the Department of Housing and Urban Development —

Q. I meant HUD and its predecessor?

A. Yes, I am.

Q. Would you identify those policies and — well, just identify the policies, if you can.

A. FHA?

Q. Yes.

A. FHA was established in 1934. It was created as part of the National Housing Act of that year, and its policies for the first decade and a half of its existence were policies of open racial discrimination and segregation in housing. It strongly pursued those policies until around 1950 to the point where it actually recommended to private builders and homeowners for filing of a racially restrictive covenant which would exclude racial minorities and all but a very small segment of the white Caucasian population.

FHA also advised its underwriters against insuring loans on houses in neighborhoods where there were inharmonious racial groups living. That's the term FHA used, [2431] inharmonious racial groups.

FHA also warned of insuring mortgages on loans on houses in neighborhoods where children of an inharmonious racial group were attending school in substantial numbers. These policies lasted for the first 15 or 16 years of its existence and well into the post-2nd World War suburban housing boom.

Q. Mr. Sloane, I'd like to hand you what has been marked for identification purposes as Plaintiffs' Exhibit No. 57. Would you just look at that and tell the Court whether or not you're familiar with that document?

A. Yes, I am.

Q. And —

A. This is an excerpt from the FHA Underwriting Manual with revisions to June 1, 1935.

Q. Now, is that the document from which the term "inharmonious groups" originated?

A. Yes.

Q. What effect, Mr. Sloane, did that particular — the policies contained in that exhibit have on the housing patterns that developed in this country?

A. In my opinion, it was a major factor in the —

Q. Why?

A. — in the intensification in the racial segregation and disparities in housing quality for black [2432] people and majority group members in that FHA was a major force in the entire housing industry, and still remains so, but was particularly in its early days. Its policies and practices tended to be followed by other elements of the private housing and home finance industry.

Moreover, when builders who wanted the benefits of FHA mortgage insurance would come to FHA, they were aware that FHA's policies really could be characterized as separate for whites but nothing for blacks, and builders who wanted to do business with FHA quickly got the idea that their subdivisions would have to be white only.

Q. Will you turn to Section 951 in that document, please?

A. I don't think this has a 951.

Q. The third page from the back here.

Would you bear with us just one moment, Your Honor, until we get this organized?

(Off-the-record discussion.)

MR. JONES: Your Honor, apparently there's a page or two missing from the original, so I will hand the witness a copy of Exhibit 51 — 57. I'm sorry.

THE COURT: A page or two are missing from the originals, so you're going to hand him a copy that has —

MR. JONES: Apparently, it was an omission in the statement. [2433]

THE COURT: Very well.

MR. JONES: I'm sure that's all it is.

THE COURT: Does the Defense have this?

MR. PORTER: Yes, Your Honor.

THE COURT: Okay.

Q. Mr. Sloane, I call your attention to Section 951. Would you take a look at that, please, and tell me whether or not you're familiar with it?

A. Yes, I am.

Q. And what is that, sir? Would you read that, please?

A. The entire paragraph?

Q. No, the section beginning, "If the children of people living —

A. If the children of people living in such an area are compelled to attend school with a majority or a considerable number of pupils representing a far lower level of society or an incompatible racial element, the neighborhood under consideration will prove far less stable and desirable than if this condition did not exist.

Q. Do you have an opinion, sir, as to what effect that particular section has had on the composition of schools in these urban areas?

MR. PORTER: Objection.

THE COURT: Overruled. We'll let him answer that. [2434] I think it is a matter of weight than admissibility.

A. I think the inevitable effect would be to tend toward racially segregated schools in that the message here to underwriters is that if schools are racially integrated the neighborhood is considered less stable and less desirable, therefore, areas where schools are integrated would be avoided by builders.

Q. Do you have next 980?

A. Yes. [2435]

Q. Would you read that, please, under Recommended Restrictions?

A. Part of 980 has to do with recommendations for recorded restrictive covenants to protect the properties. Among the recommended restrictions in this section is "G," prohibition of occupancy of properties except by the race for which they are intended. This constituted FHA's recommendation of racially restrictive covenants which was then proliferated around the country.

Q. Are you familiar with the so-called model restrictive covenants?

A. Yes.

Q. What is a model racially restrictive covenant?

A. Well, I can tell you what it contains. It contains a restriction against an unbelievably wide racial and ethnic groups beginning with black people, extending to people of the Semitic race, as it is called in the covenants, usually restricting against people of Syrian ancestry, Italians, southern Europeans generally, restricting such a wide variety that only a small portion of largely northern European Caucasians are permitted.

Q. Would you turn to Section 284 of the Underwriting Manual that you have in your hand?

A. 284?

Q. Yes. [2436]

A. I don't think I have 284.

MR. JONES: I withdraw the question. There is some mixup on this exhibit, Your Honor.

THE COURT: Take your time and get it straightened out.

Q. [By Mr. Jones] What effect, Mr. Sloane, on the growth of cities and suburban areas have the policies of FHA and to an extent VA had in terms of racial configurations?

A. The policies and practices of both FHA and VA have been very strong factors responsible for the development of residential segregation in metropolitan areas throughout the country. As I mentioned earlier, FHA's policies well into the period of the enormous suburban housing boom of the late '40s and early '50s was one of insisting on racial segregation and racial discrimination. The VA whose loan guarantee program is quite similar to FHA's mortgage insurance program tended to follow FHA's policies and practices and still to a large extent does.

What's more, the policies and practices of FHA and VA tended to be followed by the entire housing and home finance industry so that during the period of — the early period, certainly, of the suburban housing boom and continuing on into the present, the effect of those policies has been to intensify residential segregation in metropolitan areas. [2437]

Q. I would like to ask you now some questions, Mr. Sloane, about the policies pursued by the Public Housing Authority. Will you tell us what the Public Housing Authority is, what its mandate is and what the policies and practices have been? [2438]

A. The name of the particular agency has changed over the years, but most of the time it was called the Public Housing Administration. That agency administers the low rent public housing program. The public housing program was established in 1937 as a part of the United

States Housing Act. It serves people of low income by definition, those who are too poor to afford housing that's produced through the ordinary channels of the housing market. A disproportionate number of people who have been served over the years by the public housing program have been racial minorities.

The policy of the Public Housing Administration differs substantially from policies of FHA and VA. That is, the Public Housing Administration insisted on what was called a racial equity formula insisting that racial minorities get their fair share of public housing units. FHA and VA, as I pointed out earlier, insisted that subdivisions be racially homogeneous, and that meant all white, so that minorities were disproportionately under represented as users of FHA and VA programs. The Public Housing Administration, however, insisted on racial equity.

However, the Public Housing Administration felt it was perfectly permissible if local public housing authorities wanted to operate the public housing program on a racially segregated basis. In fact, over the years [2439] most public housing authorities in the north, as well as in the south, did operate the public housing program on a racially segregated basis. Therefore, while minorities got equity, they got it on a segregated basis.

Over the years the public housing program has produced over one million units of public housing, mostly in central cities, mostly on a racially segregated basis, so that the effect of that program also has been to intensify residential segregation.

Q. This has been primarily in large cities or major cities, has it not?

A. That's right.

* * * * *

[2441] Q. [By Mr. Jones] Tell us what 235 is and what the result of your evaluation was.

A. The Section 235 program is a home ownership program for lower income families. It was established as part of the Housing and Urban Development Act of 1968 and produced a massive volume of housing units for lower income families throughout metropolitan areas.

In 1970 the Commission on Civil Rights conducted a study of the racial impact of the Section 235 program. The study was conducted under my supervision. What we found was that minorities were participating in the program in large numbers. There was a larger percentage of minorities participating in the 235 program than there was a percentage of minorities in the country, but their participation was almost entirely on a central city, older housing basis.

The Section 235 program could be used both for new housing and for existing housing. The new housing was a rather good quality. It was being built almost entirely [2442] out in suburban parts of the metropolitan areas. It was occupied almost entirely by white people, white families. The existing housing — and there were a lot of problems and some scandals with respect to the existing housing that was used under the 235 program. The existing housing was in the central city almost entirely, and that is where minorities were confined.

We also tried to find out why this phenomenon was so. The reason why it puzzled us at the Commission was that one of the explanations offered for why you find very few minorities living in new suburban housing, but rather in old housing in the central city, is that they cannot afford the new housing. This economic justification simply wouldn't work with the Section 235 program, for lower income people, minorities, were, in fact, participating in very large numbers. The incomes were the same for whites as well as blacks. The mortgage limits were the same for whites as well as blacks. Yet the same pattern of whites living in the new housing out in the suburbs and

blacks living in the older housing in the central city prevailed in this program.

What we found out was the major reason was that FHA charged with the responsibility of administering the program had abdicated that responsibility and turned over applicants to real estate brokers and other elements of the [2443] private housing industry, and the traditional pattern of segregation in residence was continued in the operation of this program. We found a pattern of racial steering on the part of brokers, and FHA did nothing at all to interfere.

Q. What is racial steering, Mr. Sloane?

A. Generally it is the practice of persuading by action or inaction people to live only in areas where their race is in majority and dissuading them from seeking housing in areas where their race is in the distinct minority.

Q. It is true, is it not, that the Civil Rights Act of 1968 prohibits that kind of conduct?

A. Yes, it is.

Q. Can you tell us what, if anything, the agencies responsible for enforcement of the Civil Rights Act of 1968 and specifically this kind of conduct has done?

A. Well, there are a number of agencies that have some enforcement responsibility. HUD, of course, is the principal agency, but its enforcement has been limited largely to passive posture of receiving individual complaints, processing individual complaints. To my knowledge, they have not done anything to stop the institutional practice of racial steering.

The Department of Justice, of course, has responsibility for instituting litigation in the event of patterns or practices of discrimination. The Department has [2444] brought a number of suits, individual suits, against brokers in particular for racial steering, but it is awfully difficult for individual litigation to end an institutional practice which is nationwide. [2445]

Q. What is red lining?

A. That is a practice, a particularly insidious practice of mortgage lending institutions refusing to lend in particular areas of the city or requiring much more stringent terms and conditions for loans on houses in particular areas of the city than in others. Usually the connotation is areas where minorities are either in majority or where the area is all black.

Q. Let's go back to the public housing matter for a moment. After the Public Housing Administration was directed to harmonize its policies with the Executive Order, can you describe the types of programs that were initiated and reforms that were set in motion?

A. The Executive Order caused little in the way of a substantive change in the policies and practices of the Public Housing Administration. To be sure, they no longer were overtly and openly permitting local housing authorities to segregate by race, but less overt forms of segregation were tolerated. For example, before the Executive Order was issued, many local Public Housing authorities maintained tenant assignment lists which were separate, one for black and one for white. This was no longer permitted. What was permitted and in fact encouraged by officials of the Public Housing Administration was a form of freedom of choice plan which had been tried in several cities with no success [2446] whatsoever. Nonetheless, the Public Housing recommended to local Public Housing authorities that they switch from segregated tenant assignment lists to freedom of choice so tenants or applicants would theoretically have a choice of projects. The results were in almost perfect perpetuation and continuation of segregated public housing.

Q. Why was that?

A. Because freedom of choice did not work in the area of Public Housing for many of the same reasons it did not work in the area of school desegregation. In fact,

these reasons were recognized by the Public Housing Administration itself four years later in what I thought was a rather eloquent explanation of why they would no longer permit freedom of choice plans in public tenant assignment.

* * * * *

[2449] Q. [By Mr. Jones] During the time of recess, Mr. Sloane, we went out to discuss a little more red lining, and I'm not sure at what point we broke off, so would you just tell us what red lining is, sir?

A. Red lining is a practice engaged in by mortgage lending institutions of refusing to make loans in certain neighborhoods, neighborhoods generally that are racially integrated or predominantly black or, if they do make loans in such neighborhoods, requiring stricter terms and conditions for loans than they would require in neighborhoods [2450] that are predominantly white.

Q. We also discussed this morning, Mr. Sloane, the various policies that had been adopted by the Public Housing Administration pursuant to the Executive Order issued by the President. You had testified with respect to freedom of choice. Was there also a policy pursued which gave applicants a right of refusal without losing their place on the list?

A. Yes. That came several years later. Following issuance of the Executive Order, as I said earlier, the Public Housing Administration advised local Public Housing authorities to switch to a freedom of choice form of tenant assignment. With respect to site selection policies, however, there was no change. Sites for projects intended to be for white occupancy were located in white areas. Projects intended for black occupancy were located in black areas.

In 1964 the Civil Rights Act of 1964 was passed, including Title VI which prohibited racial discrimination in a large number of federally assisted programs, includ-

ing public housing. Several years after Title VI was enacted, the Public Housing Administration made a fairly substantial change in its policies, both with respect to tenant assignment and with respect to site selection. On tenant assignment, they required a form of first-come-first-served procedure. This is [2451] the way it worked. A local housing authority could offer an applicant whose name came to the top of the list for a particular type of an apartment two refusals, no matter what the ground was. If the applicant refused an otherwise appropriate apartment, the third time he went down to the bottom of the list and had to start all over again, which was a change from previous tenant assignment policies which were strictly on a racial basis.

On site selection as well there was a change in that the Public Housing Administration required a balanced site selection policy. That is, for every unit of public housing that was located in minority neighborhoods, there had to be an equivalent unit located outside minority neighborhoods. Now, the policies were maintained for the next five years. In fact, the tenant assignment policy first-come-first-serve is still in effect.

There was a change in site selection policies in 1972 when HUD issued what were called project selection criteria which were aimed for the most part at assuring that sites for public housing and other forms of federally subsidized housing served to reduce racial concentrations. That was the first time that the federal policy was actually in favor of reducing racial concentrations, and that occurred only in 1972.

Q. What effected that policy change, if you know? [2452]

A. Yes. There was a specific incident. A lawsuit was brought against HUD in Philadelphia. The case was called Shannon versus HUD in which HUD approval of a low-income housing project in a racially integrated area was

challenged on grounds that HUD had failed to take into account the effect on the racial composition of the neighborhood and on the vitality of the neighborhood. The Court of Appeals for the Third Circuit agreed with plaintiffs and said that HUD did have that obligation to take into account the effect of its approvals of low-income projects on the racial composition of the neighborhood, among other things, that the Court of Appeals said.

This led directly to two particular sets of regulations: One, the issuance of project selection criteria on a nationwide basis not just limited to the jurisdiction of the Third Circuit which were aimed at assuring that site selections would serve to reduce racial concentrations and also regulations called affirmative fair housing marketing regulations aimed at assuring that HUD-assisted builders would undertake programs to attract minority home seekers to usual subdivision housing in the suburbs from which they previously had been excluded. [2453]

A. (Continuing) But the Shannon case was the precipitating event.

Q. What has FHA done in an effort to comply with the mandate of the law?

A. Well, of course, as I said earlier, in its early years, the first 15, its policies were actively in favor of racial segregation and racial discrimination, including outspoken advice to underwriters, which were put in racial terms, those quotes from the Underwriting Manual that I read from this morning.

In 1947, in response to continuing protests from civil rights organizations and also in response to a specific request from the then Attorney General of the United States, FHA made changes in its Underwriting Manuals and no longer used terms such as inharmonious racial groups but substituted for such terms the term inharmonious user groups. The change was distinctly a cosmetic one, just a change in language. It had no substantive effect at all.

The first real change in FHA policy came following the decision of the Supreme Court of the United States in *Shelley versus Kraemer* which ruled that judicial enforcement of racially restrictive covenants was unconstitutional. That decision came down in May, 1948. At the time, FHA was actively encouraging use of racially restrictive covenants.

Despite the Supreme Court's decision, FHA [2454] continued to encourage use of racially restrictive covenants for nearly two years. It wasn't until February of 1950 that FHA changed its policy with respect to racially restrictive covenants.

What it announced in February of 1950 was that it would no longer insure mortgages on houses carrying racially restrictive covenants if the covenants were filed after February of 1950.

Q. What was the situation with regard to restrictive covenants that were already on file?

A. FHA would continue to insure mortgages on such houses forevermore.

Q. So this was in effect a grandfather clause?

A. That's exactly right.

For the next 12 years, FHA's policy could be characterized as one of neutrality. If a — officially one of neutrality. If a builder chose to discriminate on the basis of race in sales of houses which were provided with the aid of FHA mortgage insurance, that was perfectly acceptable to FHA. Officially, if a builder chose to sell houses without regard to the race of the home seeker, that was acceptable to FHA as well. However, there were many instances that came to the attention — to my attention and other staff members' attention at the U. S. Commission on Civil Rights suggesting strongly that the official policy was [2455] not quite the unofficial policy carried out in practice in the field, but that builders were still encouraged to sell houses, if they were going to use FHA mortgage insurance to sell houses to whites only.

The real change in FHA policy came after the issuance of the Executive Order on Equal Opportunity and Housing, which was issued in November of 1962, and that Order constituted a direct command from the president to the FHA Commission to take action necessary to prevent discrimination in the operation of its programs, and FHA then was in the legal position of advocating open occupancy for nondiscrimination in housing.

The manner in which FHA chose to comply with that presidential command was the most passive manner imaginable. Their enforcement efforts were limited to receipt of complaints, individual complaints and processing of individual complaints and making efforts to secure a house for an individual complainant if they found that the complaint was justified. That was the full extent of FHA's enforcement activities.

The 1968 Fair Housing Law, the Federal Fair Housing Law, was another command to FHA as well as all other federal agencies to prevent discrimination. FHA still, by and large, carries out its enforcement responsibilities through the receipt and processing of individual complaints. [2456]

So that FHA has been under increasingly strong mandates for equal opportunity, certainly, since 1962, which is 16 years ago.

From my experience, the enthusiasm with which they are carrying out their current equal opportunity mandates falls far short of meeting the — of matching the zeal with which they carried out their racial segregation policies during the first 15, 16 years of their existence.

* * * * *

[2460] Q. [By Mr. Jones] I would like for you to assume for the purpose of this question, Mr. Sloane, the following facts. I would like for you to make these assumptions against the background of your knowledge on the extent to which restrictive covenants have excluded blacks

from residential areas, the various programs and policies of FHA have had the effect of excluding racial minorities or, specifically, blacks from certain residential areas and the failure of other federal [2461] agencies to comply with various statutory and constitutional requirements with respect to enforcing rights are concerned.

I would like for you to assume the following: That in 1952 the Columbus School System constructed five elementary schools in areas that contained restrictive covenants; in 1953 the Columbus Public School System constructed three elementary schools in areas that contained racially restrictive covenants; in 1954 the Columbus School System constructed one elementary school in such an area; in 1955, four schools were constructed in areas that contained racially restrictive covenants; in 1956, five were so constructed; in 1957, six; in 1958, two; in 1959, five; in 1960, five; in 1961, five; in 1962, three; in 1963, six; in 1964, two; in 1965, two; in 1966, nine; in 1967, three; in 1968, three; in 1969, one.

I would like for you to further assume that the same Public School System that constructed these schools in these areas also adopts and pursues a policy of geographic neighborhood assignment of children.

I would ask whether you have an opinion as to the effect of this kind of policy on the residential patterns that would surround these schools I have mentioned and the schools themselves?

A. First, I do —

MR. PORTER: Excuse me just a minute. Is the [2462] question completed?

MR. JONES: Yes.

MR. PORTER: If the Court please, could I have the last sentence or two read?

THE COURT: Yes.

(Partial question read.)

MR. PORTER: I object to the question.

THE COURT: Do you want to make a record?

MR. PORTER: Yes. Thank you, Your Honor. I am not clear in my mind as to which question is being asked in the first place. If he is being asked as something within his expertise of housing as distinguished from schooling, I am not clear about it. I think that is not the purport of the question, however. He has not been qualified in any way that I know of with respect to school construction and school programs. [2463]

MR. PORTER: (Continuing) The other thing that I would like to also object to is the recitation of the presence of restrictive covenants. I don't know whether in the first place there is in evidence that there were at some point in time restrictive covenants in the areas where these schools were built.

The other thing is that in 1947 or '48 they were held, I think, illegal, and I think that characterization is wrong, the inference.

THE COURT: The Court, relying on what I consider the rather marked changed in rules of evidence in this area, particularly 703 and 705, I believe the question is proper and leaves you to your cross-examination, so I will overrule the objection.

Q. (By Mr. Jones) Can you remember the question?

A. Yes, I do. Well, first the fact that there are restrictive covenants in the area which exclude racial minorities necessarily would mean that the schools in the area would be white. The fact that the schools are white, there is a reciprocal effect. The racial identification of the schools as white also has an effect in perpetuating the whiteness of the residential area which feeds into the school. Even if restrictive covenants after awhile were somehow expunged from deeds, the whiteness of the school and the whiteness of the residential neighborhood would have [2464] reciprocal effect perpetuating each other.

Q. What, based upon your experience, Mr. Sloane, as one associated with the U. S. Commission on Civil Rights, one who has conducted numerous studies, studies that you referred to in your earlier testimony on housing segregation in this country and testimony you prepared for Congress that led to the enactment of various pieces of legislation, including Title VIII, what is your opinion as to the lasting effects of policies that I described in the hypothetical question?

MR. PORTER: Objection.

THE COURT: Overruled.

A. The lasting effects are considerable. Residential patterns that develop over decades, sometimes generations, tend to perpetuate themselves. It takes a considerable effort to make a dent in the residentially segregated patterns that exist.

Since the Federal Government through its many agencies bears such a large part of the responsibility for the development and hardening of the patterns of residential segregation in the metropolitan areas, it would seem to me that these federal agencies bear at least as large a responsibility to make a similar effort at undoing what they in large part have done. So far I have not seen anything resembling that sort of a major effort [2465] emerging.

Unless there is a major effort, the patterns of residential segregation will perpetuate themselves because that's the way residential patterns go on. Similarly, patterns of school segregation imposed upon the patterns of residential segregation with the key element of geographic attendance areas will similarly go on.

* * * * *

CROSS-EXAMINATION BY MR. PORTER

[2466] Q. [By Mr. Porter] What are you saying is your understanding of the hypothetical question that was asked to you and your reply to it?

A. What was my understanding of the question?

Q. What was your understanding of the question that Mr. Jones asked you and your reply?

MR. JONES: Objection.

THE COURT: I am going to allow it if you can answer it.

THE WITNESS: Certainly.

THE COURT: Overruled.

A. My understanding of the question was, given a situation where schools, a number of schools were built in residential areas where the houses carried racially restrictive covenants and, number one, what effect would the residential pattern have on school attendance and, number two, what effect would school attendance have on the residential pattern? My answer was that there would be a reciprocal effect of maintaining and perpetuating an all-white neighborhood, all-white school.

Q. Well, you are accepting as given, and maybe properly so, that these eight schools that are identified or were constructed in 1952 were constructed on properties that [2467] had racially restrictive covenants; is that right?

A. Not necessarily on properties, but in neighborhoods where the houses carried racially restrictive covenants. That was part of it. I didn't understand the question to be —

Q. That's all right, I accept that. You don't know and you are not suggesting that the Glenmont Elementary, James Road Elementary, Kingswood Elementary, Oakland Elementary, South Mifflin Elementary, Weinland Park Elementary, Westgate Elementary and West Mound Elementary were actually built in areas where there were restrictive covenants? You are simply assuming for the purposes of the question that Mr. Jones has stated the facts correctly; is that right?

A. I don't recall any names of schools were given; just numbers of schools. No, I don't know anything about those schools.

Q. So to the extent that this record reflects that the schools that he has identified by number opened with predominantly black student bodies, what would that indicate to you so far as these restrictive covenants in the area were concerned?

A. If these schools opened that way under the set of conditions that Mr. Jones gave in his hypothetical, I would be flabbergasted. I couldn't see how that could happen. If we are talking about schools that are located in residential [2467A] areas which carry racially restrictive covenants that exclude black people and attendance is on a geographical basis, it would seem inevitable to me that those schools would open with white people. [2468]

Q. Well, if I tell you, as a matter of fact, that the Beatty Park Elementary School, which was one of the three schools built in 1954, opened 90 percent black, there is something the matter; isn't there?

A. I would think so. I'm not in a position to dispute the facts.

Q. And if I told you that in the same year Eastgate Elementary opened and it had a substantial black enrollment, then there is something again wrong with that?

A. I would again be very surprised.

MR. JONES: What school again? I'm sorry?

MR. PORTER: Eastgate.

A. (Continuing) I would assume one of the facts given in the hypothetical just wasn't present.

Q. Or more?

A. Yes.

Q. Depending on what this record shows; is that right?

A. One or more of the essential facts just isn't there.

Q. All right. Now, as an expert, would you agree that as time has gone by, since 1947, the effect or the viability that you find in these covenants has diminished?

A. Since the Supreme Court decision?

Q. Yes. [2469]

A. It has some, but it has by no means — the effect has by no means disappeared for a variety of reasons. They still are, by and large, recorded on deeds. There are a good many people who still honor them. For one thing, most people aren't lawyers and may not know that these covenants are judicially unenforceable.

Secondly, most people are accustomed to living up to what they say they're going to do. I would agree that, in effect, the effect has been diminished — certainly that there is less effect today than there was in 1947, the year before the Supreme Court decision in Shelley versus Kraemer, but they still have some lingering effect.

Q. And to the extent that a given area has had — had restrictive covenants in some time in the past and that area is now, according to the census information, predominantly black, that certainly would be an example of an area where the covenant had lost its viability for whatever the reason?

A. Yes, I would agree, yes.

Q. It is my impression from reading your testimony in Dayton and Cleveland that there are two key elements to your position, and I would like to discuss these with you just a little bit.

The first is that, talking as we are now on the subject that we've been talking about, the first is that residential patterns are slow to change racially; is that [2470] right?

A. Oh, yes, that's — at least that.

Q. At least that.

And that is true whether or not there are restrictive covenants, right?

A. That's largely true, yes.

Q. It is a — if I would understand your position, it is because there are a whole number of factors which bear on the question of the development or the living conditions within an area and these are slow to change, money markets are slow to change, the community is slow to change; is that right?

A. Well, discriminatory practices are slow to change, too.

Q. All right.

A. And also recognition of the extent of equal housing opportunity does exist is slow to come.

Q. And the other thing that seems to me, Mr. Sloane, to pervade or is a dominant theme in your opinion or position, is that the Federal Government, for whatever the reason, the Federal Government has not, as a matter of policy in your opinion, actively enough pursued equal housing or open housing; is that right?

A. Let me answer it this way: Yes to that, but perhaps even more important, even when policies of Federal agencies [2471] have been at an acceptable level, the bigger with which those policies have been carried out in the field, in the practice, have been severely wanting.

Q. That is part of what I'm trying to say.

A. Yes.

Q. That while there may be, in your opinion, there may be a stated policy, it has not been sufficiently aggressively pursued; is that correct?

A. Yes.

Q. And this has nothing to do with schools, does it? I mean, this is simply national housing policy, right?

A. Well, as I testified earlier, part of the instructions to underwriters in the FHA underwriter manual back in the '30s and the 1940s had to do with the racial composition of schools, and according to that underwriting manual, racially integrated schools were a minus factor for underwriting purposes.

Q. Okay. I will talk about that in a minute, but let's go back to my question.

I stated your position correctly, did I not, that as a national policy, the Federal Government, in your opinion, has not pursued open housing to the extent that it should; is that right?

A. That's right.

Q. All right. Now, let's go back, and if we may, [2472] please, take these pieces of FHA and VA and put them into a time frame, okay?

Now, if I understand it correctly, the FHA started in 1934, am I right?

A. Right.

Q. And, according to your testimony and the testimony of others here in this case, in about 1935 or 1936 there appeared in the FHA manual or appraisal manual these things dealing with injection of certain things into the neighborhood? I've forgotten exactly the term. Is that right?

A. Well, those were there from the very inception of FHA. [2473]

Q. Okay. And they continued down past Shelley versus Kraemer in 1948 until 1950, right?

A. As I testified earlier, in 1947, there were — there was a change in language in the Underwriting Manual from inharmonious racial groups to inharmonious user groups.

Q. And if I understand what you've said here, and it's consistent with what you have said elsewhere, that that language was eliminated in 1950; is that right?

A. Yes.

Q. All right. So that as of 1950, if an outsider was to look at the Federal Government's guidelines and policies with respect to financing under the FHA, he would not find this language which you've identified; is that right?

A. No, it would be the outward appearance of neutrality on racial discrimination.

Q. And I believe it was your testimony here and elsewhere that they did, in fact, pursue or at least pay lip service to a position of neutrality; is that right?

A. That was the official policy, yes.

Q. All right. Now, if a school board — strike that. Strike it.

And it's also my recollection from your testimony elsewhere that the FHA and VA loans from 1950, in the 1950's were in excess of 40 percent of the new housing market; is [2474] that right?

A. At certain periods during that time, yes.

Q. All right. And I think you have also testified elsewhere that this financing was almost entirely in the suburban parts of the metropolitan areas; is that right?

A. Yes.

Q. And then in the '60s, the piece of the FHA-VA market was approximately 30 percent? It was down, right?

A. That's right, yes.

Q. And would I be correct in assuming that it still is primarily in the suburban rather than — in the suburban parts of the metropolitan area?

A. In the 1960's?

Q. Yes.

A. Yes, for the most part. In the latter part of the 1960's, there was a concerted effort on the part of high FHA officials to turn FHA's attention to the central city.

Q. And today, according to your testimony, in Cleveland, I think it was, it is now approximately 15 percent?

A. FHA's share?

Q. That's correct.

A. I think so, yes.

Q. All right. So that since 1950, there has been no policy of encouraging or recommending these racial covenants or this racial policy so far as neighborhoods are [2475] concerned? That's right so far; isn't it?

A. No, I'm not sure if I can agree with that.

Q. Okay. I did get cumbersome.

A. No, as I testified earlier, the unofficial policy carried out in the field —

Q. Wait just a minute. Let me ask the question.

A. I thought I was responding to one.

Q. Let me ask it. Let me bring it down.

After the change in FHA policy or the elimination of this language out of these manuals in '47 and then in '50, then in 1962 there was an affirmative Executive Order or an Executive Order by the then president which affirmatively dealt with equal opportunity in housing; is that right?

A. That's right.

Q. And then, in 1964, two years later, there was the Civil Rights Act; isn't that true, which dealt in part with this?

A. No, the Civil Rights Act of 1964 didn't really cover FHA.

Q. I had understood or read your testimony in another case to indicate that Title VI of the Civil Rights Act of 1964 had played a part in this picture.

A. Title VI has an exemption of contracts by way of insurance or guarantee, and other than the new subsidy [2476] programs which came later, FHA's financial assistance is solely by way of mortgage insurance or a contract of insurance and was exempt from coverage under Title VI.

Q. All right. And then, in 1968, there was the Federal Fair Housing Law; is that right?

A. That's right.

Q. So that to the extent that a school system built a school building after 1950 it built it upon a federal policy that did not — did not encourage racial discrimination, did it?

A. No, I'm sorry, I don't think that's right. It built it upon a federal policy carried out by local insuring officers in Cleveland, Columbus, Dayton and every other major city in this country which continued to be discriminatory, and the demonstration of that is that the United States Commission on Civil Rights estimated that as of 1959, nine years after FHA officially had stopped discriminating, less than 2 percent of the post World War II FHA housing had been occupied by minorities.

By 1967, which was five years after the Executive Order on Equal Opportunity was signed, that percentage

had risen only to 3.3 percent. This, it seems to me, is a practical suggestion that the policies which officially were announced in Washington were not being carried out with very much enthusiasm, and that discrimination was continuing with [2477] respect to FHA housing.

Q. Well, let's put it a different way.

If Dr. Novice Fawcett was going to put a building up in the Columbus Public School System in 1952 and somebody said, "Hey, you'd better look at the FHA rules," he's not going to find anything in there such as existed prior to 1950, is he?

A. No. [2478]

Q. And he's going to be told if he inquires or his people inquire that the Federal Government is neutral upon the subject; is that right? Is that what your testimony was?

A. He'll be told by whom? If he goes down to the FHA insuring office, he might not be told that.

Q. All right. Now, Mr. Jones asked you about a model restrictive covenant. Do you remember that?

A. Yes.

Q. And you identified one; am I right?

A. I told him what the model covenants contain, generally.

Q. Do you remember testifying to Mr. Jones in Cleveland on Wednesday, December the 10th, —

A. Yes.

Q. — 1975?

And you were asked the question by Mr. Jones:

Did your research and investigation into the practices of FHA, Mr. Sloane, reveal whether or not that agency provided developers with language or model restrictive covenant terminology or an inclusion in the local documents?

A. Yes, I remember that.

Q. Do you remember that question?

A. Yes.

Q. Do you remember what your answer was? [2479]

A. Yes.

Q. What was it?

A. I had always assumed that FHA had provided a model covenant and everybody I talked to was operating under that assumption. My search did not reveal one. I couldn't find it.

Q. Yes, I think that you said:

I personally have not discovered one?

A. That's right. Everyone, including FHA officials, said, "Oh, yeah, we used to be able to provide a model covenant," but I haven't been able to find it. The model covenant I told Mr. Jones about earlier was just a model covenant and was not used.

Q. Are you familiar, or I assume I guess to be more accurate, I guess I should assume that you are not familiar with the Federal Housing — the Public Housing projects in the City of Columbus?

A. No, I am not.

Q. You don't know, so that the record is clear, you don't know whether or not the seven or eight or nine non-senior citizen public housing projects in the City of Columbus, you do not know where they were built, what their racial composition was when they opened up or what it is today, do you?

A. No, I don't. [2480]

Q. Nor do you know whether or not the school buildings predated the construction of the public housing facility, do you?

A. I don't.

Q. All right. I understand that your employment by the Government, the Federal Government, specifically, the United States Civil Rights Commission, ended in 1973; is that correct?

A. That's right. [2481]

Q. So that Exhibit 511 which you have read from dealing with the Federal Civil Rights enforcement in 1974

was a document which was prepared after you left?

A. That's right. This is one in a longer series of similar reports. The first three or four were done under my supervision. This was not.

Q. Do you have the full report there?

A. No, I don't.

Q. May I have it, please?

I am going to hand you the full book, Mr. Sloane, and open it to page 119, and I would ask you to read that paragraph because I believe that it differs from my recollection of your testimony.

A. HUD does not yet collect data on racial and ethnic composition of neighborhoods in which single-family housing sales are made. Thus it is not possible to assess the extent to which sales made through HUD's single-family housing program perpetuated or combated segregated residential patterns. It appears that HUD does not yet collect data on the racial and ethnic composition of the population for which HUD's programs are targeted, and thus it seems that HUD cannot measure the extent to which minorities are proportionately represented in its programs. It also appears that HUD does not collect racial and ethnic data on private housing and does not make systematic use of [2482] census data to survey the nation's racial and ethnic housing patterns.

Q. Thank you. Do you agree with that?

A. Do I agree with —

Q. That statement?

A. That HUD does not collect data on the ethnic and racial composition of neighborhoods, I believe that's so. HUD does collect racial data on the houses which are acquired by people.

Q. Do you agree with the statement "And that it is not possible to assess the extent to which sales made through HUD's single-family housing program perpetuated or combated segregated residential patterns"?

A. I don't think that would be so in that certainly those data are available through census, I believe. That's just a single page. As I understand it, all they are saying is that HUD does not itself provide data on the racial composition of neighborhoods. It doesn't say those data aren't available elsewhere.

Q. I also noticed in your testimony in Cleveland that you attribute to the FHA the — I think your language actually was that the FHA was instrumental in making racially restrictive covenants more popular and prevalent than they were prior, and I suppose prior to 1934; is that right? [2483]

A. That's right.

Q. So that to the extent that there were school buildings, for example, built prior to 1934, it would be your understanding as a housing expert that they were in less use — restrictive covenants were in less use prior to that time than they were subsequent to it?

A. That's right, generally.

Q. To the extent the school buildings were built between 1934 and 1950, they would have been built during the time when these restrictive covenants were in wide use; is that right?

A. That's right.

Q. If there weren't any buildings being built by the Columbus Public School System during that 16 years, then it is of no significance, is it, the restrictive covenants?

A. Restrictive covenants are of no significance?

Q. So far as the construction of school buildings are concerned?

A. I am not following your question.

Q. I am not sure what it was at this point. I think I just have another question.

MR. PORTER: I have no further questions. Thank you.

ROBERT L. GREEN
called as a witness on behalf of the
Intervening Plaintiffs, being first
duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. LUCAS

[2525] Q. [By Mr. Lucas] State your full name and occupation, please.

A. Robert L. Green, Dean, College of Urban Development and Professor of Educational Psychology at Michigan State University.

* * * * *

[2563] Q. Dr. Green, based on studies — perhaps we should go back then.

The College of Urban Affairs in Michigan State University, does it study the entire interdisciplinary relationship of urban areas, schools, housing, demographic movements, things of this nature?

A. Race, ethnic, social movements.

Q. All right. One of the areas of study at the University and at the College of Urban Affairs deal with migration patterns of whites and blacks?

A. Yes.

Q. And does the University also deal with questions of housing choice and why people make those choices?

A. Yes.

Q. Does the University also deal with the conditions of schools and the perception of conditions of schools?

A. Yes.

[2564] Q. And I believe you were the first director of the Department when it was a department at the University, and then Acting Dean and then Dean as it became a college; is that correct?

A. Yes.

Q. Now, based on your knowledge and working with your faculty and your staff, is there any data to support, other than just your personal opinion, is there any data to support the idea that whites moving into a community and finding that schools are black in an area where they would be looking at a house would have any sort of perception of those schools?

A. Yes. We have a young geographer on our staff, Professor Joe Darden, who has done extensive research on residential desegregation and perception of whites in selecting communities, schools and so forth, and whites moving into any community normally would view and will view schools that are predominantly black and neighborhoods that are predominantly black as communities in which they would not want to raise their children, but it's specifically schools.

As a matter of fact, if I could move it one step further, blacks who move into a community with resources and means accomodate the views very often of the white community and they, too, will very often see predominantly black schools as being less than desirable in which to raise [2565] their kids, especially blacks with means and education, but it's definitely a white view, a view that's held by whites. Schools that are predominantly black are perceived as being lacking in resources, lacking in having instructional personnel that's well-trained with the years of experience and exposure to the classroom and typically see these schools as schools which they would not want to have their children raised due to inferior resources and personnel. Whether it's true or not, that's a perception.

* * * * *

[2567] Q. Dr. Green, let's assume for the sake of this question that Columbus has rebuilt a number of its black schools on the same sites or nearby and has spent a fair amount of money refurbishing schools and so forth. Does

this fact get communicated or does the factor of race in terms of in migrating individuals, does the factor of race tend to obscure such physical facts?

A. Oh, yes.

MR. PORTER: Objection.

THE COURT: Overruled.

A. The fact of race does obscure the development of new sites because race is yet seen as being the most powerful factor in the choices that individuals historically have made regarding where their children will be educated.

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CROSS-EXAMINATION BY MR. PORTER
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[2568] Q. [By Mr. Porter] And your testimony for the most part here today deals with your opinions within your field of expertise generally and not with specific reference to Columbus, [2569] although you would not exclude Columbus from the generalities; is that right?

A. That's correct.

.
DAVID HAMLAR

called as a witness on behalf of the
Intervening Plaintiffs, being first
duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. ATKINS

[2660] Q. [By Mr. Atkins] Would you give your full name for the record, and address, please?

A. David D. Hamlar, 2626 Kenview Road South, Columbus, Ohio.

Q. I believe you are a doctor, are you not, Mr. Hamlar?

A. Yes, sir.

Q. Dr. Hamlar, you are now a member of the Columbus Board of Education, are you not?

A. Yes, I am.

Q. How long have you been a member of the Columbus Board?

A. This is my sixth year of this term. Two years before.

Q. And the prior two years were back in the —

A. '66, '67.

Q. And this term began in 1971?

A. This term started in '72 — '74.

[2661] Q. I am sorry.

A. '74.

Q. And have you, during either your first or the present term, been an officer of the Columbus Board?

A. Yes.

Q. Which positions have you held, sir?

A. I have been president, vice president.

Q. And during what period were you president?

A. Last year.

Q. Was that for a one-year term?

A. One-year term.

Q. What was the period, if you can recall, when you were vice president?

A. It was the previous year.

Q. Dr. Hamlar, I believe in a deposition taken by Plaintiffs' counsel Mr. William Davis on April 12, 1974, you were questioned relative to certain resolutions offered by you as a member of the Columbus Board. Do you recall that deposition?

A. Yes, sir.

Q. The indication was that on May 1 of 1973 or May of 1973, you introduced a resolution to the Columbus Board seeking certain assistance from the State Board or the State Department of Education. Could you describe briefly the substance of the resolution?

[2662] A. Well, the idea of the resolution was to ask for any advisory assistance or money that could be made available to help desegregate Columbus Public Schools.

Q. What was the action taken by the Board on the resolution?

A. On that particular resolution, we decided not to do that, and we — there were several resolutions presented by me towards the asking for assistance, monetarily and advisory, but I can't recall specifically whether they were in committee meetings or in the voting Board members, which I had introduced resolutions in both concerns, but we always in committee meetings determined whether it would be advisable to bring in a resolution form rather than have the Superintendent put it in resolution form. If we don't have enough votes to carry, we automatically just dismiss it.

Q. Now, according to the deposition in April of 1974, the indication was that that particular resolution on a 4-to-3 vote was defeated or rejected, whichever term would be more appropriate, by the Columbus Board. Does that comport with your recollection?

A. Yes.

Q. And was the vote at that time, as far as you can recall, a vote that split essentially along racial lines of the Board?

A. Yes.

[2663] Q. And since that time, has the Columbus Board passed any other resolutions seeking from the State Board of Education, the State Department of Education, the State Superintendent of Public Instruction, assistance in desegregating the Public Schools of Columbus?

A. No.

Q. During the period that you have served on the Columbus Board, has the Columbus Board passed resolutions relative to instructing the Superintendent to use the Princeton pairing plan to effect desegregation in Columbus?

A. You say have we passed a resolution instructing the Superintendent?

Q. Yes.

A. No, sir.

Q. Were resolutions or orders, whatever form they take, during your term passed by the Columbus Board instructing the Superintendent to use the cluster plan to desegregate public schools in Columbus?

A. No.

[2664] Q. Do you recall a resolution that was offered by another member of the Board seeking to set up a site selection advisory committee? Do you recall that?

A. Yes.

Q. And was the purpose of that resolution to provide a mechanism for preventing sites being selected whose construction — on which construction would result in racially segregated schools?

Q. Yes. It was explained to me — that's the way I understood it.

Q. Did the Board pass that resolution, Dr. Hamlar?

A. No.

Q. Has the Board passed any resolution similar to that since then?

A. You mean similar to site selection?

Q. Yes.

A. No.

Q. Has the Board during the term you have served on it, either your first or your second term, instructed the superintendent to redraw school attendance boundaries so as to desegregate the public schools in Columbus?

A. I must say not in those terms, but boundaries were to be considered under our last resolution in providing more integrated educational experiences, as it's been put in resolution form.

[2665] Q. That resolution dealt with new schools that were being constructed, did it not?

A. Yes, sir.

Q. But as far as you can recall, the Board has not during your first or second term instructed the superintendent to review the boundaries in existence in the Columbus Public School System for the purpose of redrawing them where needed to desegregate the schools?

A. It's been inherent in some of our plans, but not specifically to do that. As a matter of fact, there have been occasions it has been stated that no boundaries would be done, that it would be unnecessary gerrymandering to do such a thing.

Q. You mean that no boundaries would be redrawn for the purpose of desegregation?

A. Specifically, yes, I would say that, but boundaries were to be considered where necessary, where new schools were to furnish better integrated educational experiences.

* * * * *

HOWARD OWEN MERRIMAN

called as a witness on behalf of the
Intervening Plaintiffs, being first
duly sworn, testified as follows:

DIRECT EXAMINATION BY MR ATKINS

[2956] Q. [By Mr. Atkins] Would you state your full name and address for the record, please?

A. Howard Owen Merriman, 3627 Olentangy Boulevard, Columbus, Ohio.

Q. Mr. Merriman, I believe you have a Ph.D., do you not?

A. That's correct.

Q. In what field is that?

A. Educational Administration, research, evaluation, research management.

Q. When did you begin your employment with the Columbus School System?

A. In 1964.

* * * * *

[2970] Q. You mentioned that as a part of your — the positions you have held with the Columbus School System you have had certain kinds of responsibility for development functions. You said your title was at one point Executive Director of Development, and then it became Special Associate for Development, or was that —

A. That's correct.

Q. Okay. And what did you do?

A. Ran the building program.

Q. All right. Did you plan the building program as well as run it?

A. Ran the building program to implement promises made.

* * * * *

[2972] Q. Okay. So for every new school that was built, you or somebody on your staff reporting to you had to develop a racial profile of the potential area you served, is that right?

A. We had to collect as much information as we could on locating the school if there were options opened for locating it. Some of the schools, new schools specified in Promises Made were being located on Board-owned sites, and the sites had been determined prior to the 1972 bond issue.

Q. Do you recall, Dr. Merriman, what the specific Board vote was that created this policy, the policy attempting to site new schools so as to enhance where possible integration?

A. Specifically, no, but my primary reference point is in the document to which I have referred called Promises Made wherein the statement of the Board policy is spelled out.

* * * * *

[2986] Q. Was it your understanding that the Board policy was such that you were constrained from choosing

a site whose attendance area would be serviced by either public or school department provided transportation?

A. Please say again.

Q. Was it your understanding that the only attendance areas that were permissible as a part of this to locate the buildings so as to create the integration process were those that the children could walk to?

A. With the exception of the Columbus Plan and the schools where we created capacity over and above the neighborhood area, —

Q. All right.

A. Yes.

Q. All right. Isn't it the case that that there are already the school districts or attendance areas for high schools in Columbus which are sufficiently large; that some of the [2987] students at least need to ride one or another form of transportation to get to their school? That's the case now; isn't it?

A. Yes.

Q. It's also true that some of the junior high districts are sufficiently large that some of the students within them have to use either public or another means of transportation to get to their schools?

A. Yes.

Q. There are even some elementary school districts or elementary attendance areas that are sufficiently irregular to require some of those students to need one or another form of transportation to get to their school; isn't that true, too?

A. Yes.

* * * * *

[3058] Q. [By Mr. Adkins] Showing you a document that has previously been marked Plaintiffs' Exhibit 137 which I believe was obtained during some of the pretrial discovery for this case, obtained from the Columbus

Board, do you know whether or not the first annexation shown there, the Mifflin annexation in 1957, brought with it a school or schools?

A. I don't believe so, but I don't know of my own knowledge. The Mifflin annexation I am familiar with was when the entire residue of the Mifflin district was absorbed by the Columbus District. I believe it was in 1971.

Q. All right now, this Plaintiffs' Exhibit 137 indicates that there have been several interactions between Columbus and the Mifflin district, does it not? [3059]

6-10-57 there were 20 acres or 21 acres annexed by Columbus from Mifflin; then again on 11-9-59, two separate transactions, two separate actions, close to 87 acres; again on June 10, 1963 in two separate actions, 35 acres, thereabouts. Was it the 1963 annexation to which you are referring or was that a later one?

A. No, sir. If you look on the next page of your exhibit, the paragraph indicates —

Q. Paragraph No. 3, right?

A. That's correct, a transfer of the entire district into the Columbus City District on July 1, 1971.

Q. Right. [3060]

A. And that was all the students and all the buildings in the Mifflin District.

Q. At that time, that was South Mifflin Elementary, Cassady Elementary, East Linden Elementary and Mifflin Junior Senior High School; is that correct?

A. That's correct, uh-huh.

Q. Would you look at this Plaintiffs' Exhibit 137. Can you tell me whether any of these other annexations brought with them schools, and if so, which ones, to the best of your recollection?

A. There was a Worthington annexation, and it may have been one of these, and I'm not precisely sure of the dates because I'm not — I wasn't involved in it, but there was a Worthington annexation in the '60s and included

in that transfer was Homedale Elementary and Sharon Elementary Schools.

Q. Homedale and which one?

A. Sharon.

Q. Did either of the ten or eleven annexations involving Reynoldsburg add schools?

A. Not that I recall.

Q. Or Upper Arlington?

A. No, sir.

Q. Or Westerville?

A. The Westerville reference, I believe it's on page 4, [3061] is the, I believe — are the annexations to which I referred earlier, part of those annexations which the Ohio Supreme Court recently decided to uphold the transfer which is to occur July 1st of this year, and that includes — that includes a small, I believe it's an eight-room elementary school on Cleveland Avenue called, it was called Minerva Park Elementary School.

I see no others on this list that contain school buildings that I'm aware of.

Q. What about the southwestern — neither of the southwestern annexations, as far as you can recall, involved any schools as such?

A. No, sir.

Q. Okay. You've indicated that the policy that guided the Columbus Board's annexation was an effort to coincide the school district boundaries with the municipal boundaries; is that correct?

A. That's correct.

* * * * *

W. A. MONTGOMERY
called as a witness on behalf of the
Original Plaintiffs, being first
duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. LUCAS

[1372] Q. [By Mr. Lucas] State your full name and address, please.

A. W. A. Montgomery, 161 East Fourteenth Avenue.

Q. Mr. Montgomery, you have been employed by the original Plaintiffs for some period of time collecting data and investigating certain facts as to the matters affecting [1373] this school desegregation case, have you not?

A. Yes, sir.

* * * * *

[3161] Q. Do you have with you Original Plaintiffs' Exhibit 51?

A. Yes. This is it (indicating).

Q. Would you examine 51E-2-C, please?

A. 51E-2-C is the September 3, 1907 Ohio State Journal, page 9.

Q. All right. Would you read that section beginning "Segregation of Races Up Again"? I am sorry, "Again Up."

A. That particular exhibit —

MR. PORTER: May I have an objection to all of this, please?

THE COURT: Yes. The exhibit that you described is No. 51E-2-B which is headlined "Segregation of Races Again Up." See, there is a B and C subpart of that exhibit.

Q. I am sorry. Give us B first, please.

A. Okay. B is the September 3, 1907 Columbus Evening Dispatch, page 12. There is an article in the upper righthand corner of the page which says in large print, "Segregation of the Races Up Again." There is a line, and it says, "A resolution offered in School Board to establish special colored school," and another line, "Matter referred," and then it gets into a different Board of Education matter. The article states:

"The proposition to establish a special school for colored children instead of allowing them to attend the same school with white children made its periodical appearance at the meeting of the Board of Education Monday night.

[3162] A. (Continuing) John J. Trauger, member from the south side —

Q. Spell that, please, sir.

A. T-r-a-u-g-e-r — brought the matter up and the proposal this time went even so far as to be referred to a joint committee consisting of the sites and judiciary committee.

New paragraph. This places the question in the hands of — it's either E. F. Wood or C. F. Wood, Dr. W. O. Thompson and C. E. Morris as members of the sites committee and J. J. Stoddard, J. C. Brown and Dr. A. Timberman, members of the judiciary committee. Their report on the matter is to be made to the Board in one month.

Q. Is the article in — and I will drop, if I may, with reference to the 51 and just give the letters — ETC essentially the same article?

A. ETC is the Ohio State Journal's account of that Board, and it doesn't seem to differ. It does mention the names of those Board members who have a responsibility, you know, on those joint judiciary and sites committees to look into that question.

Q. All right. Would you refer now to the Board minutes of September 16, 1907, Exhibit 51E-3-A?

A. Yes, I have those Board minutes, and page 295 of those minutes which has the exhibit of that number.

[3163] Q. All right. In 295, there's a motion by Mr. Thompson. Would you read the motion?

A. Yeah. That's from Board Member William Oxley Thompson. He presented the following resolution:

RESOLVED, that the City Solicitor of this city as

the legal adviser of this Board be asked for an opinion as to whether or not this Board has the power under the laws of Ohio to establish separate schools for the white and black races and to compel the children apportioned hereto to attend the schools to which they are assigned.

Mr. Thompson moved to adopt the thing, which was agreed to.

Q. Is Mr. Thompson a member of the sites committee?

A. Yeah, that's the same William Oxley Thompson.

Q. All right. Now, I refer you to the Columbus Evening Dispatch for Thursday, September 17, 1907.

A. Okay. That is marked Exhibit 51E-3-B, and on page 2 of that paper, in large print it says at the top: Favors Separate Schools for the Negro Children. There's a line.

Dr. W. O. Thompson is not unfriendly to them but thinks it for the best. Dr. W. O. Thompson of the Ohio State University — he was also president of that body in addition to being a Columbus Board member —

Q. All right.

[3164] A. — is in line on the side favoring separate schools for colored and white children. Dr. Thompson said he was a friend of the colored people as well as the white, and he believes it is for the best interests of both that they be educated in separate schools. A resolution introduced by him at the meeting of the School Board Monday night asks that an opinion as to the legality of separate schools be secured from the City Law Department. It is not expected that the Law Department will render the decision before the coming election.

Q. I take it things haven't changed.

Would you refer, please, Mr. Montgomery, to 51E-4-A, B and C?

A. Yes. These are the three evening papers, the Columbus Dispatch, the Columbus Citizen and the Ohio State Journal for September 25, 1907.

Q. Is that September 24th perhaps?

A. September 25th, they report about a meeting of about 800 colored people out on the Mt. Vernon Avenue skating rink, on Mt. Vernon Avenue.

Q. That's at 23rd Street?

A. Yes. Like this one Dispatch article is headlined: Colored People Object Strongly to Segregation — or, wait, I reserved that word order. That's colored people strongly object to segregation.

[3165] Q. All right.

A. And all three papers carry substantially the same account, that they had a mass meeting of colored people to object to —

Q. Read what it says, if you will.

A. Okay. I'm reading from the Ohio State Journal, which is 51E-4-B. The historians records of that newspaper article, that's what this exhibit is. Okay.

Protest against colored schools.

Negroes hold mass meeting and make objection to the Board of Education plan. Resolutions condemning the suggested plan to establish separate schools in Columbus for white and colored pupils were adopted last night at the meeting at the skating rink of Mt. Vernon Avenue at 23rd Street were attended by 800 colored residents of the city.

And then they have some proposed resolutions which they were drafting and which was delivered to the Board meeting at the end of the month.

Q. All right. Do you have the minutes of the Board meeting of September 30, 1907, page 306, containing that resolution?

A. Yes. These are those Board minutes. This is Exhibit 51E-5-A, and, let's see, what's the page number on this? 306 of the Board minutes.

Q. All right. Would you read the —

[3166] A. Okay. There is a flag note out in the margin. It says:

Resolutions: Colored mass meeting protesting against any action favoring separate schools.

It reads:

Mr. Keller presented the following resolutions from a committee of colored people which were read and placed on file:

WHEREAS, we have learned from the newspapers of the city that there is a proposed action by the Board of Education looking to the establishment of separate schools for the education of white and colored children, the same being contrary to the letter and spirit of the state — of the statutes of the State of Ohio; and

WHEREAS, such a separation we deem would mitigate against and subject the colored children to undue disadvantages; and

WHEREAS, the continued agitation of this question in the manner aforesaid is menacing the stability of our present commendable and very much appreciated free public school system; and

WHEREAS, the boundary lines of certain school districts in this city having been drawn as to segregate colored children was an act of injustice committed against them, both white and colored, to satisfy the prejudices of [3167] a few; and

WHEREAS, the spirit which prompted such actions by the Board of Education of this city is selfish, narrow and not in accord with the broad Christian spirit which would dominate every American home.

THEREFORE, BE IT RESOLVED THAT, we, the colored citizens of Columbus, in mass meeting assembled appreciate the necessity of entering upon a discussion of this question, yet holding it to be the paramount duty of every man to look well into the questions affecting the welfare of his citizenship, hence we feel it incumbent upon us to state our position on this matter.

[3168] BE IT FURTHER RESOLVED THAT, we condemn any action that the School Board having for its object either directly or indirectly the establishment of the separate schools for the education of colored children and that we are unalterably opposed to class legislation of any kind under any conditions.

BE IT FURTHER RESOLVED THAT, the condition of our people, objectionable or otherwise, is due largely to the treatment which we have received at the hands of American white people. Therefore, we feel that the white citizens of our city owe it to us to give us that benefit which accrues to us as a result of education by contact and by association in the public schools as they now are.

RESOLVED THAT, a copy of these resolutions be sent to the Board of Education and the press.

Signed: Ralph Morman, Robert Jones, Robert Barkus, W. B. Jones and G. A. Weaver, Committeemen.

* * * * *

[3171] Q. Would you refer to 51-E-16-A? These are the minutes of May 11, 1908, page 481 and 483. They contain a protest on behalf of a delegation of black citizens by Reverend E. L. Gilliam?

A. Yes, sir. There is a brief note on that in here. It says the president announced that there was a delegation of colored citizens present who desired to be heard and presented the following communication:

[3172] Gentlemen:

A committee of representative colored citizens desire to have the opportunity to present to your Board at this session a matter of vital interest to them. Signed — there is a name Gilliam and three other names here, and then on motion —

Q. I believe that's already been referred to by Mr. Seifert. Would you refer now to —

A. Wait. There is more.

Q. That's enough. If you will refer to 51E-18.

A. Okay.

Q. Refer now to the minutes of the Board from 1908, June 8, pages 504-505.

A. This is that exhibit.

Q. All right. Does it indicate the appearance of another delegation or committee before the Board?

A. Yes. There is a flag note out in the margin. It says Hawthorne Resolutions protesting against colored Sch.

Q. All right. Read the text, please.

A. The Clerk also presented the following resolution which was read and laid on the table. WHEREAS, it is a known fact that the Board of Education of the City of Columbus, Ohio, has purchased property in the neighborhood of Hawthorne Street and Champion Avenue, a location — the Clerk of the Board repeats it twice here, a location, a [3173] location, near equal distance from the 23rd Street and the Eastwood Avenue Schools which already are as close together as any other two schools in the city and not so crowded as to warrant the building of a new school house in the same neighborhood; and

WHEREAS, it is positively asserted by persons in positions to know whereof they speak that the said Board intends to erect a school house on the aforesaid property, and despite its denial to outline such a district as will cause all or a greater part of the colored children of that vicinity to attend this school and thus virtually establish a public school for the exclusive use of colored children; and

WHEREAS, the laws of the State of Ohio forbids the separation or segregation of the races in the public schools of the State; and

WHEREAS, such separation of the races, even if the laws of the State did not forbid it, always results ultimately in the inferior school equipment for colored children and, moreover, tends to set the races further and further apart

and so to hinder that mutual sympathy and better understanding which close personal contact in the plastic years of childhood helps to cultivate; therefore

BE IT RESOLVED, that we colored citizens of the City of Columbus, Ohio, in mass meeting assembled earnestly [3174] protest against any such action, and especially when contemplated by a Republican Board, several of whose members owe their election to office to colored voters; and

RESOLVED, that if the Board of Education executes its rumored intention, we enter our protest at the polls and in the course of the State and resolve —

Q. Excuse me. Is it the Courts of the State?

A. Courts of the State, and it concluded and resolved that a copy of these resolutions be sent to the Board of Education. Signed Ralph D. Brown and five others, Committee.

Q. All right. The minutes of 1908, of July 31, 1908, 51E-23 reflect the change of the Hawthorne site to the Champion Avenue School changing names as testified to by Mr. Seifert.

Would you refer to Exhibit E24-B, an article from the Ohio State Journal of January 7, 1910 at page 10?

A. Yes, I have that.

Q. Would you read that article, please?

A. It says at the top of the page —

MR. PORTER: Excuse me.

A. In large print —

(Discussion had off the record.)

Q. Go ahead.

MR. PORTER: Excuse me.

[3175] A. Negroes to have fine new school. The Champion Avenue structure will be for the use of colored children. It is expected to provide places for ten teachers and janitor of that race.

* * * * *

[3297] Q. Okay. Refer to Original Plaintiffs' Exhibit 51E-28a.

A. I have that.

Q. All right. Does that indicate the filing of a lawsuit?

A. Yes, sir, against the Columbus Board of Education.

Q. And where did you get that particular record? Where does it appear?

A. Franklin County Clerk of Courts' office in micro-film Book 304, page 703. This is case No. 59,9342, Charles T. Smith, et cetera, versus the Board of Education, et cetera, Defendants.

Q. Now, this complaint was not filed until 1910; is that correct?

A. It says here on the 23rd day of July, A.D., 1910, [3298] came the Plaintiff and filed in the Office of the Clerk of Court, so that's the date.

* * * * *

[3300] Q. All right. Read on in the text.

A. The Plaintiff further says that on or about the blank day of blank, 19 blank, comma, the Defendant Board of Education and the said Defendant members of said Board, with unlawful intent and purpose of establishing a separate elementary and junior high school for colored children purchased a site for a school building and grounds at the northeast corner of Champion Avenue and Hawthorne Avenue in said City Schol District, which site is — is the colored — oh, which site — now, this sentence with the blurry print, this sentence may not sound straight, so let me read it to you the way it looks — which site is in the colored reside district hereinabove described. That's what it looks like to me.

That hereafter, such proceedings were had by said Defendant Board of Education and by said Defendants, members of said Board as have resulted in the construction upon said site of a school building and the installment

thereof all of the furniture and equipment thereof necessary to carry on an elementary and a junior high school therein;

[3301] That there is now and has been for a number of years last past a large commodious school house and grounds established by said Defendant, Board of Education — there's clearer print here, the next page — at the southeast corner of Mt. Vernon Avenue and Ohio Avenue in said city school and known as the Twenty-third Street School and an elementary and a junior high school conducted therein by said Defendant Board, which school house and grounds are distant from said Champion Avenue Schoolhouse and grounds hereinabove de — hereinbefore described two and one-half short squares northwest thereof;

That there is now and has been for a number of years last past a large and commodious school house and grounds established by the Defendant Board of Education on Eastwood Avenue in the City School District and known as the Eastwood School and an elementary school conducted herein by said Defendant Board which school house and grounds are distant from said Champion Schoolhouse and Grounds hereinabove described three and one half squares southeast thereof;

That said Twenty-Third Street in the Eastwood Schools wherein are ample and sufficient to accommodate the children of school age residing in that part of the City School Districts and in which the same are located, and especially all such children who reside at what is known as [3301A] the Champion Avenue School District herein-after described, and there was and is no necessity for additional school in the locality of said Champion Avenue School site was purchased and said building constructed.

[3302] The Plaintiff further says that on or about November 22, 1909, the said Defendant, Board of Education, and said Defendants' members of said Board in further — furtherance of said unlawful intent and purpose to

establish, maintain and conduct a separate elementary and junior high school for colored children in said Champion Avenue School building fixed, adopted and established a new subschool district for said school in the following words and figures, and then it repeats that same description that I gave earlier.

Q. All right. Skip that, please.

A. The Plaintiff further says that said Champion Avenue School District was carved out of — they use that word then, carved out of — the school districts, therefore establishing and existing for the 23rd and Eastwood Schools and was and is so bounded and described as its boundary lines are coincident with and describe the boundaries of the colored residential district — the way they drew those boundary lines — where territory hereinabove described.

That a large majority of the boundary lines of said school district are alleys — oh, boy, that's true enough — instead of streets;

That the north boundary line thereof is one of the alleys immediately to the south and contiguous to the lot upon which stands the 23rd Street School Building.

[3303] The Plaintiff further says that the erection and establishment of said Champion Avenue School District in the fixing of the boundary lines thereof was an arbitrary, forced, unnatural and unnecessary exercise of its power and authority to assign youth to the schools established by them attempting to a flagrant abuse thereof, and of its — in their discretion therein, upon the parties, Defendant Board of Education and the Defendant members thereof, on and needs for the sole purpose of carrying into execution and their unlawful purpose of establishing in said school building —

Q. Maybe you misread that.

A. And their unlawful intent of establishing in said school building a separate elementary and junior high school for colored children.

And the Plaintiff further states and in furtherance of said unlawful plan and purpose on or about June 26, 1910, the Defendant, Jacob A. Shawan, Superintendent aforesaid of the school district, made a report to the Defendant Board of Education to the effect that he had appointed, subject to the approval and confirmation, the following named persons as teachers:

And then it names some teachers, and — names some teacher assignments.

Q. Teachers where?

[3304] A. To the Champion Avenue School District. I think they're going to go on to name them as black persons. Should I read on?

Q. You don't need to read all the names.

A. That said Defendant, Board of Education, on or about June 20, 1910, ratified, approved and reaffirmed said appointments of said persons as principals and teachers for the said Champion Avenue School — oh, here it is — that each and every one of said appointees are colored persons of African descent; that no white teacher has been appointed to said school.

Q. All right. Read the next paragraph.

A. Yeah, here's where you leave off, yeah.

And the Plaintiff further says that said Defendant, Jacob A. Shawan, Superintendent aforesaid, has notified all of the colored youth of school age residing within the limits of said so-called Champion Avenue School District to no longer attend the said 23rd Street and Eastwood Schools, —

[3305] A. (Continued) — heretofore attended by them, but, on the contrary, to hereafter attend said Champion Avenue School.

* * * * *

[3309] Q. Would you refer now to Exhibit 51-E-29a.

A. That's what the Appeals Court had to say on this [3310] decision. I have that here. The Appeals Court

was known then as the Circuit Court of Franklin County, Ohio and this is Case 3094, decision rendered the 30th day of December 1912, and I got this from the County Law Library, I think on the 12th floor. They keep Circuit Court decisions there, and that is where I got this.

Q. Did the Court simply hold that it had no authority to interfere with the authority conferred on Boards of Education?

A. Among other things, it held that.

Q. Is that the conclusion of the Court?

A. That's one of the conclusions of the Court. They seem to dodge the issue altogether.

Q. Mr. Montgomery, please. Let's not have editorial comment about it at this point.

* * * * *

[3316] Q. And did you check the racial data on residence for this particular period of time, and was there some unusual data available, unique to that period of time?

A. Yes, there was some unique and extraordinary racial information available on these attendance zones on these different schools at that time and very precise way of measuring the racial composition of these residences.

Q. Did the street directory, the street guide, directory of householders for the City of Columbus for a period of years actually denote colored families with the letter C?

A. They did that for a total of four years only. Then they stopped it.

Q. What four years were they?

A. Well, there was one year before this addition you have in your hand, and then there was that year and then two other years, and that's all I saw of them using "C" in parenthesis to denote colored residents.

Q. Is that a conclusion you drew or is that actually stated on the front of Original Plaintiffs' Exhibit 51E-31?

A. It says here right on page 65 of this directory, the 1911-1912 Columbus Directory, page 65; "C" parenthesis, denotes colored.

Q. Did you examine this for the period 1910-1911?

[3317] A. Yes, from that map 8-E-1 or 31E-30, 30-B, I think that was. I examined all the streets contained inside the Champion School zone within and withoutside of this district, and is is remarkable when you look up all those streets inside of the district. They have C's behind the resident's name. You can look up any street here, and you look outside of the district, and there is only a sporadic and occasional resident that has a C next to his name.

Q. The majority of the homeowners or the people living within the blocks enclosed in the Champion zone, do they have the letter C after their name?

A. An unholy large number of them had the C's next to their name.

Q. That's not a term I can deal with. Is it 80, 90 or 100 percent?

A. A figure between 90 and 100 percent.

Q. And in the other zones, is it less than ten percent?

A. Less than four percent.

* * * * *

[3328] Q. The Board minutes of September 18, 1922, do you have those?

A. Yes.

[3329] Q. Would you read the minutes?

THE COURT: Read what's there.

[3330] A. Okay. It says the official record at the Board of Education showed that on September 13, 1920, Superintendent Francis recommended to the Board of Education that the Champion Avenue School be made an intermediate or junior high school in order that the pupils in this district might be provided with the same

educational opportunities as the pupils living in other junior high school districts. Then it has a report here in the minutes from the Assistant Superintendent in charge of the Champion Avenue School District, and he talks about the Champion School there.

Q. Would you read that?

A. Okay. When the junior high schools have been organized in Columbus, successful teachers in those schools who were continuing their professional training in a satisfactory manner, even though not college graduates, have been retained in the departmental work of these junior high schools. All the teachers in the Champion Avenue School are either college graduates or are normal school graduates now working towards their degree by taking approved teacher training courses during the summer and doing university extension work during the school year. In my judgment the junior high school teachers in the Champion Avenue School meet the same standards in scholarship, training and professional spirit as those of our other [3331] junior high schools. The pupils in the Champion Avenue School have a splendid spirit, and the quality of their work is improving from year to year. The courses of study used in school in both the elementary and junior high departments are the same courses followed in the other grades in junior high schools in Columbus. The work of pupils transferred from Champion Avenue to other buildings compares favorably with the pupils transferred from other schools.

The general conditions of the Champion Avenue School are now very satisfactory. The building itself is one of the best in Columbus. It is provided with electricity. The rooms are large, light and well ventilated. The manual training and home economics rooms are exceptionally good. The playground —

* * * * *

[3332] Q. All right, with reference to the boundaries of the junior high school, would you refer now to Original Plaintiffs' Exhibit 51F-6?

A. Yes. This I obtained from the 1925 manual and directory at the downtown Columbus Public Library. It is a description of the Champion boundaries.

Q. All right, and from your familiarity with the [3333] previous exhibit, are these the same boundaries as have been established for the elementary school?

A. Yes, I would say so.

Q. Have you previously examined it and compared it and made sure; it is not just a guess?

A. Yes, I have plotted these on maps.

.

[3931] Q. Mr. Montgomery, are you familiar with the 1932 boundary change in connection with the Pilgrim Junior High attendance zone and the Franklin Junior High?

A. Yes, sir. I have the materials on that here.

Q. Would you refer to the Board minutes of [3932] August 15, 1932, Exhibit 51G-7(a)?

MR. PORTER: May I have a continuing objection to this, Your Honor?

THE COURT: Yes. It will be denied.

A. Okay, I have that exhibit, and those boundary changes were made in the Board minutes of August 15, 1932 on page 557 at the bottom lower part of the page.

Q. Does it contain a recommendation of the Building Committee?

A. Yes. They are the ones that recommended the change in the boundaries of Pilgrim and Franklin Junior High Schools, and it says here motion carried.

Q. All right, and the change recommended was in the eastern portion of the Pilgrim Junior High attendance zone?

A. Yes, the white residential areas in the eastern part of the attendance zone.

Q. Was there anything in the minutes indicating a protest to this change?

A. Yes. Immediately after these boundaries were offered, it says Mrs. E. W. Moore, 229 Douglas Street, protested against changing the boundary of Pilgrim School, but they still moved for approval and it passed.

Q. All right. Had there been a previous request on behalf of the Eastgate Addition parents in the Board meeting of September 15, 1930 for a change in this area?

[3933] A. Yes. Eastgate is part of that white residential on the east side. Eastgate is a part of it and so is the Shepard community. Eastgate in that 1930 meeting, which I have the minutes here and newspaper accounts, they wanted to allow their kids to go down to the Franklin Junior High School and the action the Board took was unusual. It said they were not lawfully allowed to go there, but it permitted them to stay there then. Here it formally approved that change. It gave legal sanction to it so that they could go down to Franklin Junior.

Q. In 1932 the boundary change?

A. Yes.

Q. Do you have a map, Original Plaintiff's 51G-7(b) showing the original boundaries and the changes?

A. Yes, sir. I got this map here and this has also been worked into one of the examples I cite in No. 8.

Q. All right. Can you tell us what is on the base map?

A. The base map, it has the residential area for what Franklin — let's see — what the boundaries were as of 9-7-1931, in that particular Board meeting, what they were. Then those areas are encircled in purple for Franklin Junior boundaries and green for the Pilgrim Junior boundaries, and the Champion Junior, an area in between these boundaries which is no color attached to it. For the 1932 [3933A] boundary changes I have encircled that part in

red, an inner circle on the green line which shows the eastern part which now went down to Franklin Junior which is further away than Pilgrim, their neighborhood school.

[3934] Q. All right. The Franklin Junior zone is modified by the addition of the northerly strip?

A. Yes. It contains Eastgate and the Shepard Community.

Q. Was there any change in grade structure which took place at this time?

A. I would have to study the minutes closely to examine changes in grade structures. I am not aware of any just offhand.

Q. Okay. Do you have your 1930 Census tract map, 51G-4?

A. 51G-4, yes, I have previously cited from this exhibit.

Q. All right. This does show racial composition, does it?

A. Yes. It shows that Tract 31A which constitutes that eastern portion containing Eastgate and Shepard was more akin to the racial composition of Franklin Junior attendance zone than —

Q. What does the legend show?

A. On the legend it gives markings for five and less than 25 percent, but the proportion of black here is actually closer to five. I have the numbers of population also in this exhibit.

Q. All right. Take your time. The Tract 31A conforms almost — well, in large measure, particularly on the [3935] eastern boundary, to the boundary change for Franklin Junior High which is taken from the Pilgrim zone; is that correct?

A. Yes, sir.

Q. All right. Does it include a portion of any other tract?

A. Just a small — possibly a little corner here of this 8A exerts an extremity on that census tract. It may include a little part of that.

Q. Using the base map, 51G-7(b), and your census data for 1930, did you examine the data by block in the area changed?

A. Well, I don't have block statistics until 1940.

Q. I'm sorry. Did you examine the tract data for 31A?

A. Yes, I did. They are included in this exhibit.

Q. What does the tract data show for that tract?

A. Tract 31A in 1930 has a population of, let's see, 282 Negro which is 6.7 percent of the total population of 4,214 for that tract.

* * * * *

[3939] Q. All right. From your examination of the minutes, were the boundary changes rescinded by the Board?

A. From my examination in detail of those Board minutes, neither these boundaries were rescinded nor was a case, court case filed on this one.

Q. All right. Would you refer to Plaintiffs' Exhibit 51G-8(b) again?

A. 8(b). I have it.

Q. Is there a reference in that particular article to the Eastgate School?

A. That's a headline on page B-1 of the August 23, 1932 Dispatch. The large print says:

The site of Eastgate School is purchased by Board, and then there's a line. It says: New portable structures to be built.

* * * * *

[3940] Q. It's a 1932, October 4, 1932 Dispatch article.

A. Oh! Oh, yes, yes, I have that. 51G-10(d)-2.

Q. Does it refer to the Eastgate portables again?

A. Yes, there's an article entitled, on page 2 of

the August 4, 1932, Columbus Citizen, an article entitled: 100 Residents Before Board and School Row. Eastgate parents want people sent to new portable establishment in addition. In other words, not just elementary grades, they want all of their kids to go to the portables —

Q. Excuse me. Read what it says there, please.

A. Well, just — the headlines stop after: Eastgate parents want pupils sent to new portable establishment of addition, and then there's opposing sets of parents from Eastwood and Eastgate.

Q. All right. Is there anything in the article that indicates what the parents were seeking in terms of portables?

A. The Eastgate parents wanted to send their kids to the portables right in their neighborhood for all six grades, and the Eastwood parents where these kids used to go to school objected to that in this article.

Q. All right. Originally, first and second grades were assigned to the Eastgate portable; is that correct?

A. I think grade three might also have been included. I'd have to check on that. It was just two or three grades. [3941] Whether K was also included, I'd have to check.

Q. All right. Refer now to 51G-10(a), which are the Board minutes of August 21, 1933, page 106.

A. 51G-10(a), that's page 106 of the Board minutes of that date.

Q. All right. Is there any indication there of proposed boundary changes in that area?

A. Yes. It describes a set of boundary changes, and then a boundary line is drawn to separate the attendance zone of the new Eastgate portables. They closed the Eastwood School in 1944 — excuse me — 1954, and the parents to the west of that boundary line sent their kids down to Fair instead of going to Eastwood.

Q. All right. I'll show you the 1937 map, tract book of Columbus and vicinity, Original Plaintiffs' Exhibit No. 51G-10(b), and you'll have to tell me, I think that's 2.

A. That's B sub 2.

Q. All right. Does this indicate the boundaries?

A. The base map — has the boundaries established in 1931 for Eastwood and Shepard Elementary attendance zones.

Q. All right.

A. The overlay atop it has a —

Q. Excuse me. Would you give us the colors for each?

A. Orange-tan color is the Eastwood attendance zone, [3942] purple is the Shepard Elementary attendance zone.

Q. All right. And do you show the X's for the location of the schools?

A. Red X's designates the location of the school sites.

Q. You previously in your testimony referred to the Shepard area in connection with the Franklin Junior High. Is that the same area that we're now referring to?

A. Yes.

Q. That this is at the elementary level; is that correct?

A. Yes.

Q. All right. Now, what does the overlay reflect?

A. There is a boundary line from that description I just read. I drew that boundary line on a map, an overlay, and all this line is a description of a north-south line. It seems to stop from Maryland Avenue down to East Broad Street. It's a north-south line with a little jag in it to conform to some railroad tracks, and to the east of the line those parents attended Eastgate portables in that white residential area, while — and then on the overlay I've indicated that the Eastwood School's closed. I just put something right on top of the site of that school to indicate this thing's closed.

Q. What color is the new boundary shown in?

[3943] A. That north-south line is drawn in blue, and

then I've indicated the location of Fair Avenue School with a red X where there's parents to the west of that boundary line. They go down to school further south.

Q. All right. I refer you now to another exhibit while you're still working with that one, 51H-5(b), entitled "Democracy in Action, Publication of The Vanguard League," and directing your attention to page 4 of that article, ask you to read Items 2 and 3.

A. Oh! On page 4, Item 2 says that, quote: The physical plants — talking about a recommendation of a Vanguard survey. This is No. 2. That the physical plants of the colored school be brought to standard, in other words, the elimination of portables at the Garfield and Mt. Vernon Schools and the improvements of the Garfield School plants.

No. 3: That the Eastwood Elementary School be reopened to relieve congestion in the Garfield-Mt. Vernon Schools.

Q. Is this the same school you're referring to that's just been closed?

A. Yes, sir, but that request was not granted at that time.

Q. All right. Would you read —

A. It says here about Eastwood Schools.

[3943A] Q. — the last paragraph beginning with "The third recommendation was dismissed"?

[3944] A. Oh, it's a report here. The third recommendation was dismissed by a brief explanation. The Superintendent of Schools held at the time Eastwood was closed that there were only 132 pupils enrolled, this making it unprofitable to operate the school.

Q. Go on and read the rest of it.

A. The Vanguard League made very clear that the low enrollment in the Eastwood School was effected by a redistricting order from the Board of Education which threw most of the Negro children formerly in the Eastwood District into the Mt. Vernon area. That happened in 1931.

Q. All right. And the Eastgate Addition drew the white students out of the school which was now closed and zoned them into the Eastgate Portables; is that correct?

A. Well, no, sir. See, to the west of this line, they went down further south to the Fair School designated by this red X. To the east of the blue line, they went to the Eastgate portable school.

Q. That's what I said, the Eastgate line is where they sent them to the portables.

A. Yes, sir.

Q. All right. Is Taylor Street involved in that?

A. Taylor Street, that became involved in the 1937 boundary changes.

Q. All right. Would you refer to Original Plaintiffs' [3945] Exhibit 51G-13(a), the Board minutes of August the 3rd, 1937?

A. I have those. This is page 522, 523 and the top of page 524 of the Board minutes of that date.

Q. All right. What happened to the Pilgrim Junior High as reflected by those minutes at that time?

A. They closed the Pilgrim School. I mean, rather, they converted it. Excuse me. They converted it to an elementary, and they converted Champion Elementary into a junior high with greatly expanded boundaries.

Q. All right. Would you refer to Original Plaintiffs' Exhibit 51G-13(b)?

A. Okay. From these official boundary descriptions, I prepared that map which is — that exhibit shows the new expanded size of the Champion Junior boundaries.

Q. And all that map shows is the meets and bounds of the particular boundary description; is that correct?

A. Okay. Would you want me to say anything about the limits of these?

Q. Well, describe them, if you will.

A. South boundary is Long Street. The north boundary is the Pittsburgh, Cincinnati, Chicago and St. Louis

Railroad Tracks up to — up to where Leonard Avenue intersects those tracks, and then goes diagonally north up to the Norfolk and Western Railroad Tracks, then it proceeds south down to Woodland, and I'd want to — I'd want to quote the official [3946] description from the 1937 boundaries before I attempt anything further, because there's irregular lines here drawn from east-west boundaries.

Q. All right. You did copy it from the minutes; is that correct?

A. Yes.

Q. All right. Would you refer to G13(c)?

A. Okay. Now, that — now, I've put the boundary changes on here for Garfield, Mt. Vernon and Pilgrim, that are included right in here, and I've interposed new Fair boundaries from the other boundary descriptions to show how that relates to this now that the Eastwood School is closed, also, so you have a picture of that.

Q. All right. Would you describe the base map, first?

A. Okay. The base map shows the boundaries of existing schools prior to August 3, 1937.

Q. Now, are these elementaries, junior highs or what are they?

A. It has the Mt. Vernon Elementary boundaries, the Champion boundaries and the Fair Avenue boundaries.

Q. And the different colors?

A. The Fair Avenue boundaries are in turquoise, the Mt. Vernon boundaries are in — are in tan-orange color and the Champion School occupies the area in between.

Q. That fits right within the middle between those [3947] two; is that correct?

A. Yes, no particular color.

Q. All right. The overlay does what?

A. Well, it shows — it shows no change here for the Fair Avenue boundaries in the August 3, 1937, boundary changes, but the boundary changes for Garfield I've described in a violet colored magic marker, and then Mt.

Vernon — the new boundaries for Mt. Vernon are interposed on the overlay with orange, and the new Pilgrim elementary boundaries are put in black.

Q. Now, Pilgrim is converted to an elementary; is that correct?

[3948] A. Yes. You may recall Helen Davis taught in that school from 1937 on.

Q. All right. Pilgrim took over what part of the Champion zone?

A. Well, it took the north part of Mt. Vernon — wait a minute. It took the north part of Mt. Vernon attendance zone and the eastern half of the former Champion Elementary zone.

Q. Champion now becomes a junior high; is that correct?

A. Yes, sir.

Q. All right. The boundary between Fair and the new — the converted Pilgrim Elementary is what street on the east after the dog leg?

A. That's — Taylor Avenue is the boundary and then goes up to the — then it goes up to the alley there. There's an alley north, I think, of — north of this one street on the north. It's drawn in an alley. I'd have to check my descriptions on that.

Q. All right. I'll refer you now to Plaintiffs' Exhibit, Intervening Plaintiffs' Exhibit 376, a document entitled "Which September?" and ask you to read at page 7, Item No. 5.

A. School districts are established in such a manner that white families living near colored schools will not be [3949] in the colored school district. The area in the vicinity of Pilgrim School embracing Richmond, Parkwood and parts of Greenway, Clifton, Woodland and Granville Streets is an excellent example of such gerrymandering. A part of Greenway is only one block from Pilgrim School. However, the children who live there are in the Fair Avenue district twelve and one-half blocks away.

Q. All right. Read the next paragraph.

A. A more striking example of such gerrymandering is Taylor and Woodland Avenues between Long Street and Greenway.

Q. Can you locate that on your map, 51G-13(c)?

A. Between Long Street here and Greenway, yes.

Q. Okay. "Here" doesn't mean anything in the record. You have to sort of identify it in terms of points of the compass. Long Street runs which direction?

A. East-west.

Q. All right. And it is the street which forms the bottom part of the Pilgrim boundary?

A. The bottom part of Pilgrim and Mt. Vernon, the new boundaries with Fair Avenue School.

Q. All right. And so north of the boundary is Pilgrim, south of Long at that point is Fair; is that correct?

A. Yes. The Fair Avenue boundary goes much further north than Long Street. It goes —

Q. All right. Just take your time.

[3950] At Taylor Street, what happens to the boundary of Fair in respect to Long Street? Does it turn?

A. Yes, there's a sharp right angle and it goes steadily north.

Q. Does it form a type of what might be called a chimney?

A. Yes, sir. You got a situation here, in fact, where the white and black children would cross each other's path on the way to school each day, blacks from the southern end of the Pilgrim zone walking up Taylor to get to the Pilgrim School, and then the whites up here in the north part, they'd walk south to go down to Fair. They'd cross each other's path every day.

Q. And you're referring there to the elementary district?

A. Yes, sir.

Q. And PX 376 refers to the west side of Taylor Avenue, colored residents in the Pilgrim Elementary district and then goes to Champion for junior high?

A. Yes.

[3951] Q. And that's the same area that was originally part of the Champion Elementary zone; is that correct?

A. Yes.

Q. The east side of Taylor, white families are in the Fair Avenue Elementary District and then go on to Franklin for junior high; is that correct?

A. Yes, sir. They still go south down to Franklin Junior to attend school.

Q. Your map with respect to the junior high and overlays and your map with respect to the elementaries, do they conform with that description?

A. Yes, yes, they do.

[3953] Q. Would you look at the Original Plaintiff's Exhibit 23.

A. Okay. I believe I have a copy of that with me.

Q. Do you?

A. Yes.

Q. The annual report of the Superintendent of Columbus Public Schools, October 11, 1964, do you have the document?

A. 23.

Q. All right. Would you look in the report — I don't believe the pages are marked, but there is a page appearing after the picture of Monroe Junior High School January 22, 1964, and then another picture of it with another phase of its construction.

A. Yes, there is a page here that says Monroe Junior High, and this would be the next page after that.

Q. Is there a reference to what is called Project '71?

A. Yes. I see where it makes reference after they — yes, I see this.

[3954] Q. It is called Project '71 in the 1960-64 building program; is that correct?

A. Yes.

Q. All right. Does it indicate that Project '71 is related to the Bolivar Arms project?

A. Yes, sir. It describes the survey team estimating the pupil potential of Bolivar Arms at 3,215 school-age children, and then probable enrollment at such grade level for the fall of '64 has been included with these figures that were presented to the Board, it indicates.

Q. And I believe it indicates in April of 1962 as the first official action toward making Project '71 a school building, is that correct, second column?

A. I see, yes. I see that.

Q. And the site tentatively designated was what?

A. It says a tentatively designated site bounded by Monroe Avenue, Leonard Avenue, Galloway Avenue and Atcheson Street.

Q. Does it indicate the site has been recommended for any particular reason?

A. It says after extensive study of the area the site has been recommended because of its close proximity to the source of most of its pupils, Bolivar Arms, and because of its relationship to existing junior high schools.

Q. All right. Do you have the racial data indicating [3955] how Monroe Junior High School opened in terms of racial composition, racial percentage?

A. Yes, sir. Those are contained in Original Plaintiffs' Exhibit 25B.

Q. Do you have a copy of that with you?

A. They are in the box.

Q. Would you refer to it?

A. Okay. Monroe Junior High percentages for early spring of 1964 are listed here as zero percent white pupils.

Q. Would you refer back to Exhibit 23 again and tell how many students the Monroe Junior High was planned to house? I believe it is the last paragraph.

A. Oh, last paragraph?

Q. Yes.

A. It gives the square footage here.

Q. How many pupils?

A. "700 boys and girls of grades 7 through 9 held its first classes even though construction work had not been finished," is what it says.

Q. All right. The boundaries for the Monroe Junior High, what relationship do they have to the old Champion Junior High attendance zone?

A. The new Champion Junior High attendance zone, I have the boundary descriptions of those right here also.

[3956] Q. Do you have 51I-3(c)?

A. Yes. 3(c) is the Champion boundaries for September of '64.

Q. That would be the new boundaries for Champion; is that correct?

A. Yes. The new boundaries for Champion now go over to Alum Creek, and the census information I have right here says that blacks had moved into that area when they moved it over to Alum Creek.

Q. The Monroe Junior High split the old Champion Junior High attendance zone approximately in half?

A. Yes, sir, and it shows the relative proportions. The Champion boundaries went all the way over to it appears to be Alum Creek, and then the northern boundary is the Penn Central Railroad, and it describes its interrelationship here with the Monroe Junior High boundaries.

Q. All right. It moves south across Long Street, doesn't it?

A. Yes. Champion Junior boundaries now go south as far as — to the middle of Broad Street, first time.

Q. And the Eastgate Addition, is that included now?

A. It is now included. I have the census information here for Eastgate. It is Census Tract 252, and it indicates —

Q. That's Exhibit 511-(d)3?

A. Yes. This exhibit is taken from Original [3957] Plaintiffs' Exhibit 49N which is prepared by United Community Council comparing 1950 and 1960 census tracts.

Q. All right. The 1950 figures were what in that tract?

A. Total for Tract 25 in 1950 which included the Shepard community then, but Shepard in 1960 became 25-1 and Eastgate became 25-2.

Q. Give us the total for Tract 25 in 1950 first.

A. In 1950 the total was 798 non-white and 5,113 white for Tract 25 totals. These had substantially changed in 1960, at least for Census Tract 25-2, the Eastgate part.

Q. What was the 25-2?

A. 25-2 in 1960 was 4,800 non-white and 740 white. They pretty well describe here — this closely resembles where those Eastgate portables were in good part.

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CROSS EXAMINATION BY MR. PORTER:

[4003] Q. [By Mr. Porter] Mr. Montgomery, directing your attention, please, to the Eastgate area, you testified that in 1940 that area lay in, I believe, if my memory serves me correctly, Tract 25; is that right? What tract was it in?

A. In 1940 — I have a 1940 Census map here. Shall I consult it?

Q. Please.

A. It was known as Tract 25 in 1950. Whether it was that same number —

Q. That's satisfactory for my purposes. It was Tract 25 in 1950; is that right?

A. Yes, sir.

Q. And it was then, 1960, was in some other tract or some part of that tract; is that right?

A. It was fragmenting two parts, 25 dot 1 and 25 dot 2.

Q. What is your understanding, what does that mean?

[4004] A. That means that it's no longer known as 25 but that it's a new tract number with different boundaries.

Q. Why?

A. Well, that can mean — it indicates, first of all, there's at least two parts of it, and then the outer perimeters, there may be some changes in those, also, some modifications. They say there's some tracts you can't compare strictly from year to year.

Q. Doesn't it mean that there has been a doubling of density if they split a tract into two tracts and make 25 in to 25.1 and 25.2? Doesn't that mean that there is twice the density that there was before?

A. That sounds like a simple assumption, and I'm tempted to make it. It might logically follow.

Q. You worked with the census information with respect to the east part of Columbus and also with the west part of Columbus, if I remember your testimony correctly; is that right?

A. Well, among other parts of Columbus.

Q. And it is true, is it not, that in the east part of Columbus and in the west part of Columbus, between 1950 and 1960, there was a substantial increase in population?

A. Yes, sir.

Q. And did that increase in population include an increase in children; is that right?

[4005] A. You mean concomitant with the increase of other persons?

Q. Or parallel thereto, yes.

A. Yes.

Q. So it meant that the Columbus Public School System at that point in time had more children to educate in 1960 than they did in 1950; is that right?

A. Especially with their annexation rates.

Q. And they built school buildings to take care of those children, did they not?

A. Not always. There are some departures, I found, in my own research from what, you know — what can be convenience for the attendance or the greatest number thereto.

Q. All right. Now, it would be your understanding, would it not, that the Columbus Public School System built a building in the area of Bolivar Arms to serve that housing development; is that right?

A. Well, that's what the Superintendent's Annual Report No. 23, that's what it — that exhibit indicates.

Q. And I think that you said that there was some estimate in there that the school population was to exceed 3000 or something of that sort?

A. I recall some such number as given in there.

Q. And the system presumably was asked to place a [4006] school building there to take care of the children; is that right?

A. There is particular, or at other locations to serve —

Q. I'm speaking about in the area of the Bolivar Arms, if you know?

A. Could you repeat this question again? Let's make sure what I'm answering.

[4007] Q. My question, Mr. Montgomery, if you know, is whether or not the Columbus Public School System was asked to provide school facilities for the children that were going to be living in the area of Bolivar Arms?

A. The City officials, I think that they — there was interaction between various city officials, according to that one Exhibit 23 in the relocation — urban renewal, there, concurrent with their development of this public housing, they did ask school officials to collaborate with them in degree towards the construction you are speaking of.

Q. And the school facilities were provided, were they not?

A. Yes, sir.

Q. And then subsequently for one reason or another Bolivar Arms did not work out as the type of dwelling

units that had originally been proposed and was converted into senior citizen's; is that right?

A. Yes, sir.

Q. So that that school building was subsequently closed, is that right, because of lack of children?

A. Monroe closed?

Q. Felton?

A. I haven't testified any to Felton.

Q. I didn't ask you. Did Felton close?

[4008] A. Yes, I believe it closed in '74, if I am right. I think it did. I would have to check to make sure.

* * * * *

CLEO L. DUMAREE,

called as a witness on behalf of the
Intervening Plaintiffs, being first
duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. ATKINS

[3177] Q: [By Mr. Atkins] Good morning, Mr. Dumaree.

A. Good morning, sir.

Q. Would you give your full name and address for the record, please?

A. Cleo L. Dumaree, 145 West Dominion Boulevard, Columbus, Ohio.

Q. Would you briefly recount your history of employment with the Columbus School Board?

A. I was employed with the Columbus Schools in the summer of 1935. I taught at North High School from 1935 to 1940. From 1940 to 1944 I was Principal of East Columbus and Shepard Elementary Schools. From 1944 to 1947, [3178] I was Principal of Barrett Junior High. From 1947 to 1952, Principal of South High School. From 1952 to 1956, Principal of Central High School. From 1956 to 1971, Assistant Superintendent-Administration. From 1971 to January of 1975, Deputy Superintendent.

[3179] Q. And in 1975, did you sever your relationship with the Columbus Public Schools?

Yes, I did, sir. As of January 11, 1975, I retired.

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[3189] Q. It says you were also responsible for both studying and recommending boundaries for the individual schools. What did that responsibility entail? What did you do in fact?

A. Well, the problem is two-edged. First it would be boundaries for a school that is in existence and possible changes that would need to be made in a school that's already operating. The other side of the problem would be a new building that has been constructed, and, of course, this would involve the streets in the immediate proximity of that school and would have a domino effect of touching into existing schools, because when a new building is built, it is evident that it is needed because of numbers of students and overcrowding of schools that are in existence in that total geographic area, the broad geographic area. So it would mean not only new streets that might be developed by the city, but it would mean the adjustment of some streets [3190] that already had sent their children to another school assignment that was already in existence.

Q. Now, this domino effect or this sort of rippling effect of locating a new school, was this also true of what happened when an existing building had an addition built onto it, a substantial addition, would that have sort of the same kind of domino effect?

A. Yes, sir.

Q. Your responsibility then was to look at these boundaries and from time to time study them to recommend to whomever the changes were needed — who made the decision to change a boundary?

A. The Board of Education.

Q. Did the Board vote on every boundary change?

A. Yes, sir.

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[3201] Q. Well, I suppose then by projection the determinations of pupil numbers in a given district would also then impact on the decision whether and, if so, to what extent, to initiate various forms of facilities to relieve overcrowding at school?

A. Yes, sir.

Q. So that you would have, for instance, been involved in the process by which a decision was made to rent a facility?

A. To rent a —

Q. To rent a facility to relieve overcrowding?

A. Yes.

Q. Would you be responsible for finding the facility that was going to be rented?

A. Not at its outset. This would have been handled by the division working with the building program. They would attempt to identify a site or sites, a building or whatever, and then ask us to take a look at them. Usually one superintendent also would be involved in taking an ultimate look. It might be an area where there was no choice. [3202] It was for temporary facilities, and we would move in that direction, but it was a team approach to a final decision.

Q. All right. Now, you have also been involved and at least partially responsible for the decision as to whether or not at a particular school, because of overcrowding, either actual or projected, a portable unit was needed; is that correct?

A. Yes, sir.

Q. And likewise, you would have been involved and at least partially responsible for the decision as to whether at a particular school an addition was needed to house students in classrooms?

A. That is correct.

Q. And you would have also been at least partially involved or partially responsible for those decisions that had to do with the necessary transporting of students from School A to School B for the purpose of relieving overcrowding?

A. Yes, sir.

Q. And you would have determined whether the students going from A went to B or to C? Would that have been the responsibility of the people reporting to you as well?

A. Again this becomes a team approach. The principal, of course, would be the originating source as to overcrowded conditions, or principals. We would collect the [3203] necessary information, and again we would share this with the Superintendent and the Superintendent's cabinet.

* * * * *

[3204] Q. In earlier deposition you indicated that it was your [3205] belief that the transporting of students which was done by the Columbus School System to relieve overcrowding did not at any point take into account the question of the racial or the impact, the racial impact upon the sending or the receiving school; is that correct?

A. Yes, sir.

Q. And you also testified during one of those depositions that some of the schools had attendance areas that were so large that it was necessary to use or for the school system to provide transportation to get the kids to their assigned schools. That's true also, isn't it?

A. Yes, sir, that would be on a distance factor.

Q. Yes, and mentioned specifically by you at that time were Woodward Park, Glenmont, Dominion, Linden-McKinley and Marburn. Those are schools of which that would be true; is that not so?

A. Yes, sir.

Q. And you also indicated that the Alum Crest School was built at the request of private housing developers to service the Alum Crest Apartments?

* * * * *

[3206] A. That is correct.

Q. And I believe you indicated also that the transporting of students that was done was at some point for some period of time carried out in what would be called an intact manner. That is to say, the students were moved in a group from the sending school to the receiving school, remaining in a group at the receiving school and relating back administratively to the sending school?

A. That is correct.

Q. And that during the period of their attendance at the receiving school, their responsibilities, extra curricular activities, parental associations, were determined not by the school to which they were sent, but by the school from which they were sent. That's correct, too, isn't it?

A. That is not totally correct. The records of the students were kept in their home school. We called their home school. The sending school would be the home school. The sending school would be the home school. Their teachers were a part of that staff. Their records were all maintained there. In most cases the parent-teacher association meetings and school meetings, the receiving school — you have used this term — the receiving [3207] school would also include the parents of children who were coming there in their meetings and would welcome them. They were also welcomed in their so-called home school.

Q. Do you recall, Mr. Dumaree, for what period of time the technique of intact busing was used? What were the years involved?

A. The total time of my assignment as Assistant Superintendent or Deputy Superintendent.

Q. So from '56 through '75?

A. Yes, sir. Not through '75. It would be January.

Q. Until January?

A. Yes, sir. I think it was through the total year, but, to be accurate, it would be January.

* * *

[3214] Q. Beginning on page 38 of this deposition, the question to you was:

"In 1956, did you have to your recollection black principals and black assistant principals at that time in 1956?"

And you said: "Yes."

And the question: "Were those principals assigned to predominantly black schools at that time? Student enrollment-wise, I mean."

And you said: "Yes."

And the question was: "Were there any white principals or assistant principals in any predominantly black schools at that time in 1956?"

And you answered: "Principals or assistant principals?"

The questioner said: "Principals or assistant principals in predominantly black schools and by predominantly black, I am talking about student enrollment in 1956."

You said: "Well, that is difficult for me to recapture. I don't know. I don't know. That would have to be re-searched."

[3215] The questioner said: "Were there any —"

And you said: "I can't carry all that," presumably in your head.

The questioner said: "I understand. If you don't know, certainly say so."

"Do you recall if there were any black principals in predominantly white schools in 1956?"

And you said: "I don't recall. I don't recall of any."

You remember that testimony now, do you not?

A. Yes, sir.

[3216] Q. All right. Pursuant to what Board policy with black principals and black principals assigned to black — or to those schools that had black student enroll-

ments, pursuant to what Board policy was that practice pursued?

A. Well, of course, as you know, by statute, the Superintendent has the responsibility of assigning administrators to the buildings. He presents his recommendations to the Board each year. Actually, that's the basic procedure. By statute, though, the Superintendent assigns the administrators.

Q. I understand the statute quite well. My question is: Pursuant to what Board policy were black principals and black assistant superintendents assigned solely to those schools that had black student majority?

A. I don't know whether it was the Board policy on it or not.

Q. Do you remember whether or not there was an administrative directive from either of the superintendents with whom you worked —

A. No, sir.

Q. — to that effect?

A. No, sir.

Q. Well, then, whose idea was it?

A. Well, the Superintendent, to repeat what I said before, by statute, the Superintendent assigns administrators. [3217] That was not my responsibility.

Q. You mean it wasn't your statutory responsibility?

A. No, sir.

Q. Who recommended to the Superintendent where to put those administrators or what administrators to put where?

A. Again, this is a team procedure.

Q. Where did the buck stop, Mr. Dumaree? Who carried the ball?

A. With the Superintendent.

Q. Who carried the ball to the Superintendent on a principal recommendation?

A. Our division.

Q. That would be the Assistant Superintendent during the period you were in charge of administration, wouldn't it?

A. Yes, sir.

Q. And you're telling me there was no Board policy that black principals and black assistant principals be placed in black schools?

A. I don't know of any.

MR. PORTER: Objection.

THE COURT: Overruled.

Q. And you also said to your recollection there was no policy statement or administrative directive from the Superintendent that required that?

[3218] A. That is correct.

Q. And you just said that you were the one who made the recommendation to the Superintendent as to who went where?

A. I want to say this.

Q. Yes?

A. That in the matter of assignment of personnel, administrative personnel, that this again is a team project and — but the final decision is made by the Superintendent.

Q. All right. Were you ever told by the Superintendent, either of them, with whom you worked, as either a Superintendent or Deputy Superintendent that black assistant principals or black principals were not to be assigned to predominantly white schools?

A. No.

Q. You were never told that, were you?

A. No, sir.

Q. Were you ever told by the Superintendent that white principals or white assistant principals were never to be assigned to predominantly black schools?

A. No, sir.

[3219] Q. So If I were to tell you that there was a pattern that indicated black schools and black assistant

principals and black principals, how would you explain that pattern if it existed?

A. You'd have — I'm sorry?

Q. If it existed?

A. You'd have to discuss that with the Superintendent.

Q. No, I want to discuss it with you. How would you explain it?

A. That again is the prerogative of the Superintendent. He makes the final decision. He's the executive officer of the Board and employed by them to administer the School System and assign personnel to employ —

Q. That's not — go ahead.

A. — to keep teachers and to assign them and to assign administrators.

Q. All right. So if there were such a pattern, you weren't aware of any policy of the Board or Superintendent that led to it? It just happened; is that what you're saying?

A. I didn't make any such statement.

Q. Well, I'm asking you, is that what you're saying? It just happened?

MR. PORTER: Objection.

THE COURT: Overruled.

[3220] Q. Is that what you're saying?

A. Well, what is the question? I'm sorry.

Q. If such a pattern existed, your testimony is it just happened?

A. That was the decision of the Superintendent and the approval of the Board of Education.

* * * * *

[3223] Q. (By Mr. Atkins) You do recall, do you not, Mr. Dumaree, that as a matter of fact in 1956 when you became the Assistant Superintendent that there was no black person in a principal's position in a school other than one that was predominantly black? You recall that, don't you?

A. Yes, sir.

Q. The same thing would be true of a black person who was an assistant principal, wouldn't it? He would be found only in a school that was predominantly black?

A. My memory doesn't serve me on that. I don't remember where all the assistant principals were at the time. I can't say that. I don't know. I don't remember.

Q. And you also would recall, would you not, that in 1956 when you became the Assistant Superintendent — I imagine [3224] that somebody prior to your getting there had made this decision — that there were no white principals in schools that were predominantly black? You recall that, too, don't you?

A. Yes, sir.

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[3229] Q. You indicated earlier that your responsibilities included as Deputy Superintendent studying and making recommendations for changes in boundaries. Do you recall that?

A. Yes, sir.

Q. And that was also a part of your responsibility when you were Assistant Superintendent of Administration; isn't that true?

A. Yes.

• • • • •

[3230] Q. And I take it you were not instructed by the Superintendent in drawing boundaries for new schools or redrawing boundaries for existing schools to do it in such a way as to eliminate racial segregation where it existed? I take it you were given no such instructions; is that correct?

A. That is correct.

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